

**H.R. 4391, THE "PUBLIC SERVANT RETIREMENT  
PROTECTION ACT"**

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**HEARING**  
BEFORE THE  
SUBCOMMITTEE ON SOCIAL SECURITY  
OF THE  
COMMITTEE ON WAYS AND MEANS  
U.S. HOUSE OF REPRESENTATIVES  
ONE HUNDRED EIGHTH CONGRESS  
SECOND SESSION

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JULY 20, 2004

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**Serial No. 108-65**

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**H.R. 4391, THE “PUBLIC SERVANT  
RETIREMENT PROTECTION ACT”**

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**TUESDAY, JULY 20, 2004**

U.S. HOUSE OF REPRESENTATIVES,  
COMMITTEE ON WAYS AND MEANS,  
SUBCOMMITTEE ON SOCIAL SECURITY,  
*Washington, DC.*

The Subcommittee met, pursuant to notice, at 10:36 a.m., in room B-318, Rayburn House Office Building, Hon. E. Clay Shaw, Jr. (Chairman of the Subcommittee) presiding.

[The advisory and revised advisory announcing the hearing follow:]

# **ADVISORY**

FROM THE COMMITTEE ON WAYS AND MEANS

## **SUBCOMMITTEE ON SOCIAL SECURITY**

FOR IMMEDIATE RELEASE  
 July 20, 2004  
 SS-10

CONTACT: (202) 225-1721

### **Shaw Announces Hearing on H.R. 4391, the "Public Servant Retirement Protection Act"**

Congressman E. Clay Shaw, Jr. (R-FL), Chairman, Subcommittee on Social Security of the Committee on Ways and Means today announced that the Subcommittee will hold a hearing on H.R. 4391, the "Public Servant Retirement Protection Act" (PSRPA). **The hearing will take place on Tuesday, July 20, 2004, in room B-318 Rayburn House Office Building, beginning at 10:00 a.m.**

In view of the limited time available to hear witnesses, oral testimony at this hearing will be from invited witnesses only. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Subcommittee and for inclusion in the printed record of the hearing.

#### **BACKGROUND:**

Two Social Security provisions, the Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP), potentially affect about 7 million Federal, State, and local government employees. While these provisions were intended to help equalize, not penalize, the treatment of workers, many of those affected believe the provisions are unfair. Alternatively, some have suggested that requiring all government employees to pay Social Security taxes would ensure equal treatment of both government and private-sector employees, and would eventually eliminate the need for the GPO and WEP. Legislative proposals have been introduced in the 108th Congress and previous congresses to modify or repeal the GPO and WEP.

At a hearing in May 2003, the Subcommittee examined why the GPO and the WEP were enacted, how they work, and options for modification or repeal of these provisions. Implications of mandatory coverage of such employees were also examined. In addition, the Subcommittee examined how modifications to current law would affect beneficiaries, the budget, and Social Security's long-term financing.

Since then, on May 19, 2004, Rep. Kevin Brady (R-TX), along with Chairman Shaw, and Reps. Howard L. Berman (D-CA), Howard P. "Buck" McKeon (R-CA), Sam Johnson (R-TX), and Michael H. Michaud (D-ME), as well as other Members of the Subcommittee, introduced H.R. 4391, the PSRPA. The PSRPA repeals the WEP and replaces it with a new benefit calculation.

Created in 1983, the WEP modifies the Social Security benefit formula so that employees who pay into a government pension system or other retirement program in lieu of Social Security for some jobs in their career do not receive benefits that are relatively more generous than those of workers with equal earnings who paid Social Security taxes for all jobs in their career.

Under the PSRPA, Social Security benefits would first be calculated as if all the worker's earnings were subject to Social Security taxes, using the standard benefit formula. To ensure Social Security benefits are based only on Social Security-covered wages, the benefit that is actually paid would be adjusted to reflect the proportion of the worker's earnings that were subject to Social Security taxes.

In announcing the hearing, Chairman Shaw stated, "The hard work and dedication of our Nation's public servants is deeply appreciated by all Americans. Teachers, police officers, firefighters, other public employees, and all workers deserve fair treatment under Social Security. This hearing provides an opportunity to understand how the Public Servant Retirement Protection Act ensures equitable treatment of public servants and how it would affect Social Security's long-term financing."

#### **FOCUS OF THE HEARING:**

The Subcommittee will examine the WEP under current law and how the PSRPA would affect current and future beneficiaries, and Social Security's long-term financing.

#### **DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:**

Please Note: Any person(s) and/or organization(s) wishing to submit for the hearing record must follow the appropriate link on the hearing page of the Committee website and complete the informational forms. From the Committee homepage, <http://waysandmeans.house.gov>, select "108th Congress" from the menu entitled, "Hearing Archives" (<http://waysandmeans.house.gov/Hearings.asp?congress=16>). Select the hearing for which you would like to submit, and click on the link entitled, "*Click here to provide a submission for the record.*" Once you have followed the online instructions, completing all informational forms and clicking "submit" on the final page, an email will be sent to the address which you supply confirming your interest in providing a submission for the record. You **MUST REPLY** to the email and **ATTACH** your submission as a Word or WordPerfect document, in compliance with the formatting requirements listed below, by close of business, Tuesday, August 3, 2004. **Finally**, please note that due to the change in House mail policy, the U.S. Capitol Police will refuse sealed-package deliveries to all House Office Buildings. For questions, or if you encounter technical problems, please call (202) 225-1721.

#### **FORMATTING REQUIREMENTS:**

The Committee relies on electronic submissions for printing the official hearing record. As always, submissions will be included in the record according to the discretion of the Committee. The Committee will not alter the content of your submission, but we reserve the right to format it according to our guidelines. Any submission provided to the Committee by a witness, any supplementary materials submitted for the printed record, and any written comments in response to a request for written comments must conform to the guidelines listed below. Any submission or supplementary item not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All submissions and supplementary materials must be provided in Word or WordPerfect format and MUST NOT exceed a total of 10 pages, including attachments. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record.
2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.
3. All submissions must include a list of all clients, persons, and/or organizations on whose behalf the witness appears. A supplemental sheet must accompany each submission listing the name, company, address, telephone and fax numbers of each witness.

Note: All Committee advisories and news releases are available on the World Wide Web at <http://waysandmeans.house.gov>.

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202-225-1721 or 202-226-3411 TTD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

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# **ADVISORY**

FROM THE COMMITTEE ON WAYS AND MEANS

## **SUBCOMMITTEE ON SOCIAL SECURITY**

FOR IMMEDIATE RELEASE  
 July 19, 2004  
 SS-10-Revised

CONTACT: (202) 225-9263

### **Change in Time for Hearing on H.R. 4391, the "Public Servant Retirement Protection Act"**

Congressman E. Clay Shaw, Jr. (R-FL), Chairman, Subcommittee on Social Security of the Committee on Ways and Means, today announced that the Subcommittee hearing on H.R. 4391, the "Public Servant Retirement Protection Act," previously scheduled for 10:00 a.m. on Tuesday, July 20, 2004, in room B-318 Rayburn House Office Building, **will now begin at 10:00 a.m. or immediately following the completion of the full Committee markup of H.R. 4842, the "United States-Morocco Free Trade Agreement Implementation Act," in the main Committee hearing room, 1100 Longworth House Office Building.**

All other details for the hearing remain the same. (See Social Security Advisory No. SS-10, dated July 13, 2004.)

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Chairman SHAW. Good morning. The dedicated service of our Nation's hardworking teachers, police officers, firefighters, and other public employees is deeply appreciated by all Americans. They have earned and deserved fair treatment under Social Security. Toward that end, today's hearing will give us an opportunity to understand how H.R. 4391, the "Public Servant Retirement Protection Act," will ensure fair treatment of government employees and how it will affect Social Security's long term financing.

This is a bipartisan bill. It was introduced by Representative Brady, by myself, and by Representatives Johnson, McKeon, Berman, and Michaud. It is cosponsored by seven Subcommittee Members. The Subcommittee has long been concerned with the effect of the WEP (WEP), which currently affects about 760,000 beneficiaries. As the Social Security Administration (SSA) has said in public testimony numerous times, the WEP was intended to help equalize, not penalize, government employees.

Nevertheless, many of those affected believe the provision unfairly punished them for their government service. The WEP adjusts benefits for workers who did not pay Social Security taxes in some of their jobs to ensure they do not receive a relatively more generous benefit than was intended only for low-wage workers. However, analysis of the WEP has shown that this broad-brush approach does not accurately adjust the benefits in many cases, especially for low-wage workers.

To address this inequity, H.R. 4391 would eliminate the current arbitrary formula and would calculate benefits just like all other workers, assuming all wages were subject to Social Security taxes

using the standard benefit formula. Second, to make sure the Social Security benefit is based only on Social Security-covered wages, the benefit would be multiplied by the percentage of earnings subject to Social Security taxes. This formula would ensure that government employees receive benefits that replace the same amount of wages under Social Security as every other worker in America. No more, no less.

In my home State of Florida, more than 44,000 beneficiaries have their benefits reduced because of the WEP. Firefighters, police officers, and other public servants in my district have told me about the effect of the WEP on their retirement security and their concern about the provision. I have discussed H.R. 4391 with them and, like many of our witnesses today, they have agreed that this legislation is fair and have pledged their support. I thank our witnesses for joining us and I look forward to hearing their views about the effect of this bill on workers' benefits and Social Security finances. Now I would yield to Mr. Pomeroy.

Mr. POMEROY. Thank you, Mr. Chairman. Over 7 million public servants are not covered by Social Security and potentially, therefore, subject to the GPO (GPO), and the WEP. The WEP and GPO are widely acknowledged as blunt instruments. It comes as a surprise to public servants about to retire, and they leave workers without enough time to adjust their retirement planning accordingly. In 2004 alone, some 850,000 Social Security beneficiaries will have their benefits reduced due to the WEP. Another 400,000 beneficiaries will have their benefits reduced by GPO. Those two provisions are unpredictable, often unfair. Congress has demonstrated broad bipartisan support for full repeal of both. Rather than a full repeal, today's hearing is a more limited proposal. It pertains only to the WEP and it modifies, rather than limits, the benefit reduction formula. It does offer a formula that improves on current law; however, the approach does leave questions unanswered.

The SSA have the wage data necessary to implement this new formula? What do we do about the GPO? Where will offsets be found? Also, if offsets are going to be found within Social Security to accommodate the additional costs of H.R. 4391, do they involve reducing benefits or increasing the Federal Insurance Contributions Act taxes? Finally, what do we tell beneficiaries who will be worse off, not better, under the new formula? Mr. Chairman, I am hopeful that the answers to these questions and any others that my colleagues will have will be answered in the course of today's hearing. I would yield back. Are you going to go across the panel, Mr. Chairman?

Chairman SHAW. I have agreed to allow Mr. Sandlin to make an opening statement. We also have two other Members from our side from Texas, so I will allow them each to make a short opening statement for fairness—I know this is a Texas issue, and one that they are very concerned about. I will now recognize the gentleman from Texas, Mr. Johnson.

Mr. JOHNSON. Thank you, Mr. Chairman. I appreciate you holding this important hearing. Thank you specifically for inviting the Association of Texas Professional Educators (ATPE), who supports this legislation. I look forward to hearing their statements.

There are two offset formulas under Social Security. One of them was the GPO, which dealt with spousal benefits, and the teacher loophole was a GPO problem that was closed by law. The other offset is the WEP, which deals with workers' own retirement benefits. It is an arbitrary formula meant to prevent a teacher or other government work, such as police or fire, from benefiting as a windfall from the progressive benefit formula under Social Security.

The current formula hacks at benefits to reach a less than perfect Social Security retirement benefit, and the bill introduced by Representative Brady and others, H.R. 4391, the Public Servant Retirement Protection Act, of which we are all cosponsors, would require the SSA to calculate benefits based on total actual income. Thank you for yielding the time, Mr. Speaker—Chairman.

Chairman SHAW. Thank you, Sam. Mr. Sandlin?

Mr. SANDLIN. Thank you, Mr. Chairman and Mr. Pomeroy, distinguished Members of the Subcommittee. Thank you for the opportunity to testify today on the WEP. I am pleased that the Subcommittee has convened a hearing to discuss the unfair impact of the current WEP's benefits calculation on our Nation's hard-working Federal, State, and local government employees. As a Member of the House Committee on Ways and Means, I am proud to lead the fight to alleviate the disparate treatment of our public employees.

As my colleagues know, I have introduced legislation in the past to eliminate the WEP. Today I come to encourage fairness and to reiterate my support for H.R. 594 and S. 349, the "Social Security Fairness Act," which eliminates the WEP and the GPO. Rather than simply discuss amending the method by which the WEP is calculated, I am hopeful that our public debate today on the importance of restoring equity to the Social Security benefits for our retired government employees will result in H.R. 594 being brought to the floor of the House for a vote.

Both the WEP and the GPO need to be repealed. Years ago, Congress enacted the GPO and the WEP, which hurt our public employees. The WEP reduces the Social Security benefits of persons who split their careers between Social Security benefit work and work not covered by Social Security. The GPO reduces teachers' and other public employees' Social Security spousal or survivor benefits by two-thirds of their public pension. The National Education Association (NEA) has testified before Congress that 9 out of 10 public employees affected by the GPO will lose their entire spousal benefit. That is undeserved.

Until this year, Texas teachers have been able to escape the application of the GPO through use of the last-day rule, which granted teachers a reprieve if they worked their last day in Social Security-covered employment. The passage of H.R. 743, the so-called but misnamed "Social Security Protection Act", ended this practice July 1. It is a testament to Texas that we had thus far protected our teachers' full earned spousal Social Security benefits. It is a travesty that these earned benefits were effectively taken from our teachers this year by the U.S. Congress.

The vitriolic debate over our teachers' benefits, fueled on by many Members of the Congress, included incredulous accusations that our teachers were gaming the system. Let me be clear. The

work our teachers, firemen, policemen, and other government employees do, strengthens the foundation of our Nation every single day. More often than not, these people accept considerably smaller paychecks in order to serve their communities and to educate our children. A recent national survey noted that the average teacher salary in Texas is \$39,972, making Texas 30th in the Nation for teacher pay.

The effect of the GPO and WEP on our educational system in Texas can only continue to hurt our already crippling teacher shortage. The Texas Workforce Commission projects that Texas will need over 82,000 new teachers by 2008. The Texas State Teachers Association noted that last year more than 53,000 classrooms were staffed with insufficiently certified teachers. Some claim the GPO and the WEP provisions are not particularly onerous to many of affected retirees because the provision generally affects only those who are well off and have a generous government pension. I assure the Members of this Subcommittee that my mother knows from personal experience how false this assertion is. She spent all her life in public teaching and planned her retirement carefully. To have had her Social Security benefits arbitrarily and unexpectedly reduced and stolen was more than just an insult; it was a serious blow to her standard of living in her retirement years.

Some will characterize amending the WEP formula today as a good first step. I think it is a step too short. More accurately, it is a stumble characterized as a dance. Those who criticized our teachers and public servants on the floor of the House, those who voted against what was obnoxiously called a loophole now want to gallop in on what they think is a white horse and tell teachers they should be happy with less than half a loaf. Although they are still hanging teachers, they believe teachers should be happy because they are getting hung with a new rope. Isn't that special?

This year it is projected that over 850,000 public servants will have their retirement benefits slashed by the WEP, and 400,000 will have their retirement benefits slashed by the GPO. Congressman Jim Turner filed a discharge petition on March 10, 2004, to bring H.R. 594 to the floor. As of today, 192 Members of Congress have signed this important discharge petition to compel an up or down vote on H.R. 594, a bill with 300 cosponsors. We only need 26 more Members of Congress to step up to the plate for public employees. The time to act is now. Mr. Chairman, it is time to fish or cut bait.

Mr. Chairman, as Congress moves forward with reform of the Social Security system, I urge you and the Members of the Subcommittee to remember our retired Federal, State, and local government employees. They deserve much better from us. They have earned that much. Thank you for your consideration.

Chairman SHAW. Sir, I would like to make just a brief comment. You refer to this piece of legislation as a stumble. Well, it may be in the grand scheme of things, but I would like to point out it is a \$7 billion stumble. Mr. Brady?

Mr. BRADY. Well, now that the press conference is over, we can move to the hearing on the issue today of the WEP. I want to thank Chairman Shaw for holding this. I want to thank the cospon-

sors' bipartisan way for working on this issue, and those testifying today, I think, have a real important message. Where I do agree with Max, my friend from Texas, is that there must be a better way to treat our teachers and firefighters and policemen when it comes to how much of their own Social Security they keep when they have earned two pensions—one within Social Security and one in the Social Security substitute. It seemed to me the more that we worked on this issue—and all of you are far more experienced than I—is that the WEP formula just seems to have grown arbitrary over the years and not reflective of the real world today.

The WEP today pretends everyone is wealthy. Repeal of the windfall pretends everyone is poor. Let's stop pretending. Let's provide equal treatment for everyone in Social Security based on a complete and accurate work record, their own complete and accurate work record. From a policy standpoint, I can't imagine what is more fair than equal treatment. As a teacher, I would want to be graded on my own work and not on the class average, which is what happens today. I think that it is important that we not pretend any longer that a \$30,000 teacher in Texas, a \$50,000 firefighter in California, and a \$150,000 administrator in Florida, all have earned the same amount over their non-covered years. It didn't happen, so let's not pretend that any further.

What this bill does is applies the same Social Security formula that all Americans receive for the actual time and proportioned years that people paid in. The result is—and this has been the hard part—the result is that we replace the same amount of wages for everyone within Social Security. That has been, I think, the elusive solution. I am not saying this is perfect, but what we are looking to do is find a way to help teachers, police officers, and firefighters while being fair to everyone else in Social Security. This is the balance we have sought in this bill, Mr. Chairman, and in testimony and the improvements, I think, from other Members, we are always looking for ways to make it just as good a bill as possible. I appreciate the chance for this hearing today.

Chairman SHAW. Thank you. Now we will go back to regular—

Ms. TUBBS JONES. Mr. Chairman? Do I have a chance to say something real quickly, please?

Chairman SHAW. Well, I don't know how many opening statements we are having. Let's get to the witnesses, and anything that is brought out, you will be certainly given time, as all the Members of the Committee will be.

Ms. TUBBS JONES. A very polite way to say no. Thank you, Mr. Chairman.

Chairman SHAW. Our first witness, Mr. Martin Gerry, who is the Deputy Commissioner of Disability and Income Security Programs at the SSA. Welcome back to the Committee. We have your full statement, which will be made a part of the record, and you may proceed as you see fit.

**STATEMENT OF MARTIN H. GERRY, DEPUTY COMMISSIONER,  
DISABILITY AND INCOME SECURITY PROGRAMS, SOCIAL SE-  
CURITY ADMINISTRATION**

Mr. GERRY. Thank you, Mr. Chairman. I want to very much thank the Subcommittee for inviting me to appear before you today. It is a pleasure particularly to appear before this Subcommittee, as it always has been so supportive of the SSA and its programs. I am also pleased to have an opportunity to discuss the WEP, or WEP, which I believe is an extremely complicated provision and not well understood. I know that is one of the goals of the hearing today.

First, let me begin by commending Congressman Brady and the other cosponsors of H.R. 4391, for what I believe is their very thoughtful approach to possible changes to the way the WEP is calculated. These changes are intended to better target the effect of the offset so that the amount of the resulting reduction in benefits more closely approximates the individual facts in each case.

Before I discuss H.R. 4391 and other approaches to modifying the WEP, I would like to take just a moment to give some background on the provision. As you know, Mr. Chairman, the Social Security amendments 1983 included the WEP as a means to eliminate what Congress viewed as windfall Social Security benefit for workers who also received pensions from employment not covered by Social Security. The WEP primarily affects government workers. Before WEP, some of these workers were treated as low lifetime earners for Social Security benefit purposes, and received the advantage of the weighted Social Security benefit formula in addition to their other government pension. WEP was intended to eliminate this advantage by using a different, less heavily weighted Social Security benefit formula.

A number of bills have been introduced that would change WEP, and these proposals include eliminating it entirely, providing higher Social Security benefits for government workers whose pensions from non-covered employment and their Social Security benefits are below certain levels, and by replacing the WEP benefit formula with an alternative computation. This last approach is embodied in the H.R. 4391. Under this bill, as introduced by Congressman Brady, a hypothetical primary benefit would first be computed based on all of the workers' covered and non-covered earnings after 1950. This hypothetical benefit would then be multiplied by the proportion of the worker's total earnings that were covered under Social Security to get a benefit level.

The bill would also guarantee that workers with a government pension based on non-covered earnings would receive no less than the benefit under the present WEP provision. The bill would apply to beneficiaries already on the rolls, as well as to future beneficiaries. Unfortunately, the data needed to make many of these calculations will not be available for all cases, making it difficult for the SSA to equitably administer the provisions of the bill. The SSA only has records of non-covered earnings beginning in 1978, when it began receiving Form W-2 information from employers, some of these records are incomplete. Certainly we have significant problems with the data up to at least 1983.

It is questionable whether earnings before 1978 would be available from other sources. The non-covered earnings are needed for as many as 30 years ago, and employers are only required to keep records for 4 years. Many workers also may lack good records of their non-covered earnings prior to 1978, and providing information on those earnings could only serve to lower the benefits payable under the bill.

The bill gives the Commissioner of SSA the responsibility for developing a method for determining the amount of non-covered wages used to calculate the worker's pension. We understand that the intent is to permit SSA to deem non-covered earnings to a worker's earnings record when such earnings are not available. It is not clear to us how we could do this. Possibilities include, one, using the average earnings amount for the specific position held by the employee for that year; or two, calculating a deemed earnings amount based on the other years of earnings for which the SSA does have records, and using that as a reference point. Both of these approaches present substantial problems and potentially significant costs, and I have outlined the reasons for both the problems and the costs in my written testimony.

We are also concerned about taking on the workload of recomputing benefits for all current beneficiaries affected by the WEP to determine if they would receive higher benefits under the change. This would require that the SSA review benefits of up to 680,000 retired and disabled workers. In addition, the bill also provides that current workers be guaranteed present law benefits if higher. Consequently, the SSA would need to maintain two alternative WEP calculations for many decades if we are going to carry out that provision for everyone who is now affected.

In closing, let me again commend Congressman Brady for taking on such a complex issue, and thank the Chair and the Subcommittee for giving me this opportunity to discuss the WEP. As always, we would welcome the opportunity to continue to provide assistance and additional information to the Members of the Committee. I would be glad to answer any questions that you might have.

[The prepared statement of Mr. Gerry follows:]

**Statement of Martin H. Gerry, Deputy Commissioner, Disability and Income Security Programs, Social Security Administration**

Thank you for inviting me to discuss the Windfall Elimination Provision, or WEP, and proposals that would modify or eliminate the current formula, and, specifically H.R. 4391, the Public Servant Retirement Protection Act. This bill would replace the current WEP benefit formula with a formula that would take into account a worker's non-covered earnings as well as covered earnings. The proposed modifications to the WEP raise a number of technical issues that should be considered.

The WEP is not well understood, so today, I would like to take some time to describe the purpose of this provision, how it works, and issues that should be evaluated when considering legislative changes to this provision. I will also discuss SSA's efforts to educate individuals about the impact that a pension from non-covered work can have on their Social Security benefits.

**GPO Provision**

However, before I discuss the WEP, I would like to briefly discuss the government pension offset (GPO) provision. The GPO also affects workers who receive pensions based on employment not covered by Social Security and is often confused with the WEP. For ease of discussion, when referring to government employment, I am refer-

ring to all levels of Federal or State government employment that is *not covered* by Social Security.

The GPO affects *government* retirees who are eligible for both:

- A pension based on their own work in a Federal, State, or local government job that was *not covered* by Social Security, and
- A Social Security spouse's or surviving spouse's benefit based on their husband's or wife's work in *covered* employment.

Under the GPO, a person's Social Security spouse's or surviving spouse's benefit is reduced by an amount equal to two-thirds of the amount of the person's government pension based on work not covered by Social Security. As of December 2003, about 390,000 beneficiaries had their benefits fully or partially offset due to the GPO.

In enacting the GPO, Congress intended to assure that when determining the amount of a spousal benefit (e.g., wife's, husband's, widow's, widower's), individuals working in non-covered employment would be treated in the same manner as those who work in covered employment. The GPO provision removed an advantage that some government workers had before the GPO was enacted. Before GPO, a person who worked in a government job that was not covered under Social Security could receive, in addition to a government pension based on his or her own earnings, a full Social Security spouse's or surviving spouse's benefit.

However, a person who works in a job that is *covered* under Social Security is subject to an offset under the dual entitlement provision. This provision, which has applied since 1940 when benefits were first payable to a worker's family members, requires that Social Security benefits payable to a person as a spouse or surviving spouse be offset by the amount of that person's own Social Security benefit. Thus, dually entitled beneficiaries receive the equivalent of their own worker's benefit or the spouse's/surviving spouse's benefit, whichever is higher.

The GPO acts as a surrogate for the dual-entitlement offset for workers receiving a government pension based on work not covered under Social Security because, if that work had been covered, any spouse's or surviving spouse's benefit would have been reduced by the person's own Social Security worker's benefit. The result of the GPO is that spouses and surviving spouses are treated similarly, regardless of whether their jobs are covered under Social Security or not.

#### **Windfall Elimination Provision**

I would now like to discuss the WEP provision. The Social Security Amendments of 1983 (P.L. 98-21) included the WEP provision as a means to eliminate "windfall" Social Security benefits for retired and disabled workers receiving pensions from employment not covered by Social Security. Generally, while the WEP applies to any pension based on non-covered employment, it primarily affects government workers. (The WEP does not affect the Social Security benefits payable to survivors of workers who received pensions based on non-covered employment.)

The purpose of the WEP was to remove an unintended advantage that the weighting in the regular Social Security benefit formula would otherwise provide for persons who have substantial pensions from non-covered employment. This weighting is intended to help workers who spent their lives in low-paying jobs by providing them with a benefit that is relatively higher in relation to their prior earnings than the benefit that is provided for higher-paid workers.

However, because benefits are based on average earnings in employment covered by Social Security over a working lifetime (35 years for retired workers), a worker who has spent part of his or her career in employment not covered by Social Security appears to have lower average lifetime earnings than he or she actually had. (In determining average earnings for Social Security benefit purposes, years with no covered earnings are counted as years of zero earnings, as if the person had not worked at all.) Without the WEP, such a worker would be treated as a low-lifetime earner for Social Security benefit purposes and inappropriately receive the advantage of the weighted benefit formula. The WEP eliminates this potential "windfall" by providing for a different, less heavily weighted benefit formula to compute benefits for such persons.

#### **Computation of the WEP Benefit**

Under the regular (non-WEP) benefit computation rules, a three-step weighted benefit formula is applied to a worker's average indexed monthly earnings (AIME) to determine his or her primary insurance amount (PIA). The PIA is the monthly benefit amount payable to a retired worker first entitled at the full retirement age or a disabled worker. The PIA formula applicable to workers who reach age 62 or become disabled in 2004 is:

90 percent of the first \$612 of AIME, plus  
 32 percent of the next \$3,077 of AIME, plus  
 15 percent of AIME above \$3,689.

Under the WEP computation, the 90-percent factor applied to a worker's average earnings in the first band of the Social Security benefit formula generally is replaced by a factor of 40 percent for workers who are receiving a pension from non-covered employment.

(Under both scenarios, the 32 and 15 percent factors are the same.)

For a worker first eligible in 2004, the maximum WEP reduction is \$306 per month. Unlike the GPO, the WEP can never eliminate a person's Social Security benefit.

WEP does not apply to workers who have 30 or more years of substantial earnings under Social Security at all. For workers who have 21–29 years of substantial covered earnings under Social Security, the reduction under the WEP is phased out gradually.

The WEP provision includes a guarantee designed to help protect workers with relatively low pensions based on non-covered employment. This guarantee provides that the reduction in Social Security benefits can never exceed one-half the amount of the pension based on non-covered work.

#### **Educating the Public**

As you can see, the WEP and GPO provisions are complicated and consequently, there have been misunderstandings about who is affected. In order to lessen this confusion, SSA has made revisions to the *Social Security Statement* that highlight and make clearer that the WEP and GPO may affect a worker's future Social Security benefit if he or she receives a pension based on non-covered employment. The *Statement* refers individuals to SSA publications that explain how benefits can be affected by the WEP and GPO. It also refers individuals to an SSA website, which was recently revised to make sure that there is ample information and links to fact sheets that explain the impact of the GPO and WEP. The website includes a benefit calculator that allows workers to estimate the effects that WEP may have on their monthly benefit.

Additionally, SSA offices nationwide provide pre-retirement seminars to employees who request them. If government employees request the seminar, we inform them of the potential impact that WEP and GPO may have on their monthly Social Security benefit.

As you know, the Social Security Protection Act of 2004 provides that all *Social Security Statements* issued after December 31, 2006 will contain language to explain the maximum potential effects of the WEP and GPO to any person whose records indicate that they may be subject to those provisions. We are currently examining ways to use our administrative records of non-covered earnings to identify individuals whose benefits are likely to be affected by the GPO or WEP.

#### **Legislation Affecting WEP**

A number of bills have been introduced that would change the WEP. These proposals include:

- eliminating the WEP entirely;
- providing higher Social Security benefits for government workers whose pensions from non-covered employment, in combination with their Social Security benefits, are below certain levels; and
- replacing the WEP benefit formula with an alternative computation.

Each of these approaches raises issues that I would like to discuss. Let me start with the elimination of the WEP. If the WEP did not apply, approximately 680,000 retired and disabled workers would see their benefits increase. It is estimated that elimination of the WEP would have a 5-year cost of \$10.8 billion and a 10-year cost of \$29.7 billion. The long-range cost would be significant—estimated to be 0.06 percent of taxable payroll.

The second type of proposal that has been introduced would provide less of a WEP reduction, or no WEP reduction, if the combined amount of the worker's non-covered pension and Social Security benefits is below a certain threshold. Representative Frank has introduced two such bills. H.R. 4234, the more recently introduced bill, would exempt an individual from WEP if his or her combined benefits were less than \$2,500 per month when he or she is first eligible for both Social Security and a non-covered pension. Workers with combined amounts of \$3,334 or higher would be fully subject to the WEP in the same manner as under current law. And for those whose combined amounts are between \$2,500 and \$3,334 per month, the WEP would be phased in. This change is estimated to have a 5-year cost of \$7.8 billion;

the 10-year cost would be \$18.7 billion; and the long range cost would be 0.01 percent of taxable payroll.

Because the threshold amounts of \$2,500 and \$3,334 are not indexed for future years, over time, more workers would have combined amounts exceeding \$3,334 and thus would be fully subject to the WEP because their non-covered pensions and their Social Security rates will rise in nominal dollars. It is not clear if this effect is intended. Also, because of the link between the application of the WEP and a dollar amount of the person's monthly income from Social Security and the government pension, some have said that this change would be introducing a form of "means test" for Social Security benefits.

The third type of bill that has been introduced would replace the current WEP formula with an alternative computation. This is the approach embodied in H.R. 4391, as introduced by Representative Brady. Under this bill, a hypothetical primary benefit would first be computed based on *all* of the worker's covered and non-covered earnings after 1950. This hypothetical benefit would then be multiplied by the proportion of the worker's total earnings that were covered under Social Security to obtain the primary benefit payable to the worker.

The bill also includes a guarantee provision that would ensure that workers whose government pension is based on non-covered earnings in the year of enactment or earlier would receive no less than the benefit under the present law WEP provision. The bill would apply to beneficiaries already on the rolls, as well as to future beneficiaries.

I would like to commend Representative Brady and the co-sponsors of this bill for the thoughtful approach developed for eliminating the "windfall" that would otherwise accrue to workers with pensions from non-covered employment.

However, SSA has a number of concerns with the bill. The primary issue is that the computation would consider non-covered earnings after 1950, but SSA only has records of non-covered earnings beginning in 1978, when it began receiving Form W-2 information from employers, and some of these records are incomplete—particularly for the years soon after SSA began collecting this earnings information.

An analysis of the records of individuals with non-covered earnings indicated that there are many individuals who have gaps in their non-covered earnings patterns. It appears likely that, in many cases, those individuals remained in non-covered employment during those "gaps." An evaluation of the largest 155 non-covered Federal and State/local government employers showed that for about 30 percent of these employers there was either a complete gap for one year or more, or for one year or more there were substantially lower non-covered earnings posted relative to a surrounding year.

- Of the 47 employers that seemed to have a problem, 32 had a problem in one of the years in the period 1984–1986.
- For only 4 of the 47 employers, the "gap year" was for 1990 or later.

In addition, although State and local governments were supposed to file Forms W-2 for non-covered earnings for the years 1978–81, compliance for this period was generally inconsistent with regard to State and local entities because there were no enforcement activities.

With respect to a worker's non-covered earnings for years before 1978, it is questionable whether information about these earnings would still be available. The earnings in question would be for periods that are 27 or more years ago and employers are only required to keep records for the last 4 years. It would be a substantial workload for SSA to try to develop this information which would be needed to calculate the Social Security benefit under the bill. In addition, it could be quite burdensome for the government employers to access this information—if it still exists.

Further, there could be questions concerning willingness to cooperate, particularly when the agency needed records the employee might have, because including additional non-covered earnings in the computation could only serve to lower his or her benefit amount payable under the bill. Conversely, the benefit would be higher without such earnings. For example, a worker whose non-covered earnings were entirely before 1978 would fully avoid the WEP reduction under the proposed computation if those earnings were not counted. Counting such pre-1978 non-covered earnings in some cases but not others, based on availability, would not be equitable.

As indicated previously, the bill would be effective for those on the rolls, necessitating a recomputation of benefits for *all* current beneficiaries affected by the WEP in order to determine if they would receive higher benefits under the change. This would require SSA to review the benefits of up to 680,000 retired and disabled workers currently affected by the WEP to determine if their monthly benefits should be adjusted.

If the worker had non-covered earnings before 1978, these reviews would require SSA to attempt to obtain information from the former employer regarding those earnings. Because of the large volume of recomputations required and associated manual actions, the workload impact on SSA would be substantial—and would create delays in other workloads. We estimate that implementation of H.R. 4391, including development of pre-1978 non-covered earnings (when available), would require more than 2,600 workyears (\$190 million) over 5 years. Further, the necessary systems changes would be significant and would require at least 18 months to implement.

The bill appears to recognize the problem associated with obtaining pre-1978 non-covered earnings. Although the effect of the bill language is not clear, it gives the Commissioner of SSA the responsibility for developing a “method” for determining the amount of non-covered wages used to determine the worker’s pension. The Commissioner would have some latitude in determining what is reasonable, but the non-covered wage amounts determined for the year in question must be derived from employment records or from other information received by SSA.

We believe that the intent of this special language in the bill is to permit SSA to “deem” non-covered earnings to a worker’s earnings record when such earnings are not available. It is not clear exactly how this would be done. Possibilities might include using the average earnings amount for the specific position held by the employee that year. Under this approach, SSA would need to verify the job position (e.g., janitor, teacher, bus driver) for each worker for each year in question. There would also be an issue of how to compute the average. That is, would the average earnings amount be based on the average at the State level for that position or at the level of the specific employing entity? (There are over 2,300 State and local government entities.) There is also a question of whether such historical average earnings data would be available for the myriad of different positions employed by State and local governments.

Another possibility might be to calculate a deemed earnings amount based on years of earnings that SSA does have on its records for the individual. However, because a worker’s pre-1978 earnings would often be early in a person’s career, the subsequent earnings used to compute the average would likely be higher than the actual amount of pre-1978 earnings. Therefore, the person’s actual pre-1978 earnings would be lower than the deemed amounts assigned to those years. Because inclusion of additional non-covered earnings could only lower the Social Security benefit payable, the worker may well object if he or she believes that the deemed earnings amounts are too high—even if he or she does not have proof otherwise.

An additional point is that the bill provides for individuals to be guaranteed present law, if higher, for many years into the future. Thus, a worker who just recently became employed in a non-covered job at, say, age 22, would be allowed to retain the present-law WEP rules, if a higher benefit would result, 40 years in the future when he or she claimed Social Security benefits. Consequently, SSA would need to maintain two alternative WEP calculations for many decades to come.

SSA’s Office of the Chief Actuary estimates that enactment of H.R. 4391 would increase program costs by \$2.6 billion over the first 5 years; the 10-year cost would be \$7.0 billion. The long-range cost of the program would increase by 0.01 percent of taxable payroll. These cost estimates assume that only the available non-covered earnings data on SSA’s records, for years 1978 and later, would be used in calculating the proposed benefit. The actuaries used this assumption because they believed that the availability of non-covered data for years before 1978 would be problematic for at least some, if not many, non-covered workers. To the extent that workers’ pre-1978 non-covered earnings are available and could be included in the proposed benefit computation, the cost of the bill would be somewhat lower.

### **Conclusion**

H.R. 4391 proposes significant changes to the manner in which the WEP is calculated. These changes are intended to better target the effect of the offset so that the amount of the resulting reduction in benefits more closely approximates the individual facts in each case. Unfortunately, the data needed for these calculations—much of it wages paid to individuals as many as 30 or more years ago—will not be readily available for all cases, making it difficult for SSA to equitably administer the provisions of the bill. In addition, the workloads that would be generated by passage of such legislation would be tremendous and take years for SSA to complete.

I want to again thank the Chairman and the Subcommittee for giving me this opportunity to discuss the WEP and GPO provisions and to share SSA’s analysis on legislation before the Congress. As always, SSA would welcome the opportunity to provide assistance to the Members and is more than willing to work with you to

provide any additional information you request. I would be glad to answer any questions you might have concerning the WEP and GPO provisions.

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Chairman SHAW. Thank you, Mr. Johnson?

Mr. JOHNSON. Thank you, Mr. Chairman. Thank you for being here, Mr. Gerry. Tell me, would workers, in your opinion, be treated more fairly under this bill, in your view?

Mr. GERRY. Well, it is clear to me that that is the goal of the bill. Part of the problem in answering your question is how we would practically implement the bill. As I have looked at the problems that we have, in particular with pre-1978 data, it isn't clear to me that we would eliminate many of the fairness problems. We might create new fairness problems, depending on how we approach that. I think, as Congress considers the legislation, it would be very important for Congress to lay out clearly to the agency how we should resolve some of those issues. I mentioned in my oral statement a couple of different approaches that we might use. Each of those has implications, particularly for people who might have had much lower earnings earlier in their career, where an average either for the profession or for themselves would not accurately represent.

Mr. JOHNSON. No, no, but it doesn't.

Mr. GERRY. It could overstate their earnings.

Mr. JOHNSON. That would give them more, not less. Isn't that true?

Mr. GERRY. Well, it would give them a higher income level, which would give them a greater reduction in benefits. In other words, it would tend to inflate their non-covered earnings if indeed we had people whose early years were lower, by assuming the average, we would be raising, in effect, the amount that we would assign to those years. That would be the effect of it.

Mr. JOHNSON. I know, but how would that affect their retirement?

Mr. GERRY. Well, then that would, of course, increase the relative amount of earnings that would be imputed to the non-covered side. That would, in effect, change the calculation of the benefit formula so that the Social Security portion of the wages would be lower, because of the imputed additional non-covered earnings from these early years, and that would mute or soften the attempt to try to eliminate the WEP.

I said in my statement it is complicated, and I think part of the reason is that anything that we would do in the formula that would overstate non-covered wages—unintentionally, would have the opposite effect of what I think the bill attempts to do, and that is the problem with using averages, especially for people who had a progressive increase over the years in their wages for their profession taking their later average, or the average, would tend to give you a higher number than what they would really have earned, for example, in their early years.

Mr. JOHNSON. Yes, but that is why the bill gives you the authority to set up the system, so you can figure out how to do it.

[Laughter.]

I am not impressed that you say you can't do it. It seems to me you ought to be able to review 680,000 pretty quickly. You review every one of them every year, don't you?

Mr. GERRY. Well, what we are talking about is re-computing every one of these cases.

Mr. JOHNSON. Don't you re-compute every one every year?

Mr. GERRY. We don't re-compute every one every year.

Mr. JOHNSON. Well, you send us a form. Where do you get the numbers from?

Mr. GERRY. When people apply for benefits, we are using information—unless that information changes, we wouldn't re-compute that information every year. Basically, we make a calculation of the retirement benefit amount. Unless something changes with respect to the information, which would not normally be the case, we wouldn't re-compute it every year.

Mr. JOHNSON. Salaries don't change on people every year?

Mr. GERRY. Well, we are talking about people who are now retired.

Mr. JOHNSON. Yes, I understand.

Mr. GERRY. Whatever people are earning now wouldn't affect that retirement benefit, unless the earnings were high enough to be included in the computation.

Mr. JOHNSON. Do you have the computer capability to do that?

Mr. GERRY. We could develop the computer capability to do the additional re-computations. We can make changes in the system to do that, and I think it is definitely feasible. I think there is a significant cost, which I have outlined in my written testimony, to doing it. The re-computation estimates suggest it is something around 2,600 work years, which is a significant additional cost.

Mr. JOHNSON. I find that a little hard to believe. Thank you very much. Thank you, Mr. Chairman.

Chairman SHAW. Mr. Pomeroy?

Mr. POMEROY. Thank you, Mr. Chairman. I think your testimony, Mr. Gerry, lays out that while simple in concept, implementation of this legislative proposal is anything but easy. Therefore, I take some exception to characterizing those that simply want to scrap WEP as not playing substantively on the topic matter. This is not a path that gets us to just calculating carefully the percentage of Social Security versus non-covered wages because we don't have that data. One of the things about the annual statement I get from SSA on my earnings history is that every bit of it back to my high school jobs were somehow captured in the system. It seemed like you would have 680,000 individuals, more than live in the entire State of North Dakota, to go back and figure out, well, what was covered, what did you do when you weren't covered, how long does that go back? I understand that in particular it is a problem for pre-1978, but is a daunting challenge, is that correct?

Mr. GERRY. That is right. Although I would say that the data situation obviously gets better each year in that, at some point, we will reach a point where people retiring won't have pre-1978 earnings and wouldn't have the problem, so there is a time—

Mr. POMEROY. That is correct, but you could be 45 and have pre-1978 earnings fairly conceivably in your earnings history.

Mr. GERRY. Yes.

Mr. POMEROY. We are talking about a population 45 and older. I think most of us think that is still a group that counts.

Mr. GERRY. Right, and I just want to say, to be accurate, that I think that there are parts of the changes that would not be difficult for data after 1983 particularly. We have that information; we can make those calculations. When there are gaps, I think they are relatively easy.

Mr. POMEROY. Mr. Gerry, it seems to me that all this wrestling around about what we ought to do to develop a new formula, I am still—I don't fully appreciate the problems with the existing WEP. Is it unfairly reducing benefits? Is it too blunt an instrument that tends to err on shorting what people ought to be paid? I need more information on that. What is your view?

Mr. GERRY. Well, it is clear that when Congress created it, and I want to keep stressing that Congress created this, because I think that this was deliberated at some length. The agency has basically attempted to apply it. By picking the 40 percent figure, there is an arbitrariness to that number. That certainly would mean that there are some people who are adversely affected by that number. There is no way around that. Now, any number would be arbitrary. Ninety is actually arbitrary, too. It is a question of—

Mr. POMEROY. Do you have any notion on percentage that might be disadvantaged at the 40 number?

Mr. GERRY. No, and in part for the same data reasons. I think the approach that H.R. 4391 takes is a perfectly sound approach to looking at the comparison. I think the logic of the bill is very obvious. If we could really do that, if we could really see what were covered earnings and what were not covered earnings and what is the percentage of reduction, that is a very logical strategy to me. I think that makes sense. It is the practical problem of doing it. The concern I think that we would have about that is to be sure that if we are going to have to take another arbitrary approach one way or the other, that Congress look at that question. I think it is good that we have tools to ferret out what Congress intends, but I think it would be very helpful to know specifically which way Congress intends us to go.

That is what I am trying to say. I think we have worked very long with this and we want to continue to work with the Subcommittee on this because the approach seems—if we could carry it out, I think it would be very much improved over where we are. I think the data problems are going to lead us to one set of assumptions or another. In other words, what I am saying, Mr. Pomerooy, is I think there are several intermediate positions between leaving everything the way it is and completely eliminating the WEP. That is what I assume the Subcommittee is struggling with.

Mr. POMEROY. We are. Is the SSA doing work internally on it?

Mr. GERRY. We have been looking, really, at the proposals that have been coming from the Subcommittee and trying to think through the questions that you have raised. There is the pre-1978 earnings question, which is obviously the number one practical problem. There does seem to be a limited number of things that could be done. I have laid them out in my written testimony.

Mr. POMEROY. Some might suggest that the time to fix these issues, both of them, is in exchange for bringing these non-covered systems into the system, so you bring public plans into Social Security. At that time, part of the quid pro quo is we fix this. Again, that is not necessarily my position. Some have discussed it in that context. I would just note, as my time has expired, that Congressman Gene Green sought to testify today. For reasons of the Chair, the Members were not participating. I want to underscore his interest in the issue, as my colleague Max Sandlin's, with whom I have talked about this issue many times. I thank the Chair and I yield back.

Chairman SHAW. I think maybe we need a little clarification as to the problem that Mr. Gerry is talking about. Social Security benefits are figured using the 35 highest years of earnings. When Mr. Gerry says that he doesn't have anything prior to 1978, if you do the math, that is 26 years ago. You can see the problem of the gap that he is concerned about. Our jobs are to make the law; his job is to be able to make it work.

[Laughter.]

Mr. GERRY. Faithfully executed, Mr. Chairman.

Chairman SHAW. With that, Mr. Hulshof.

Mr. HULSHOF. Thank you, Mr. Chairman. I want to, at the outset, provide my unqualified, unequivocal support, Mr. Brady, for your bill. I am proud to be a cosponsor. To me, politics is the art of the possible. We can all talk about the barriers that would be in place and the challenges that we would have. I guess, Mr. Gerry, one of the things we could be—and it is appropriate that you point out how difficult it would be for your agency. I guess—because as Mr. Johnson pointed out, we want to give leeway to the SSA. I guess one of the other options would be that we, Congress, could be very prescriptive as far as what authority we would give you, and yet we would opt for the flexibility.

I have to say to my friend from Texas, Mr. Sandlin, the so-called incredulous claims that you, and I put quotations around it while you made that statement. The incredulous claims that you claim Members of Congress made regarding the Texas loophole, were based upon actual cases testified to by the Inspector General of the SSA. Don't shake your head, Mr. Sandlin. It happened here in this hearing.

Mr. SANDLIN. Do you want to yield?

Mr. HULSHOF. I recall—I will if I have time. I recall specifically the Inspector General talking about a teacher from Texas who drove 500 miles one way, was a janitor for a day, drove back 500 miles another way, and ended up having a significant windfall, and that was an actual case. I will yield to you to respond to that.

Mr. SANDLIN. That is very interesting, and shows that you don't understand the issue. The teacher probably did that. Here is the thing, the teacher 500 miles one way and 500 miles back to claim a retirement benefit earned by a lifetime of work by the spouse. Not 1 day. It doesn't have anything to do with 500 miles or 5,000 miles. It has to do with a spouse that works an entire lifetime, earns Social Security benefits, and has them taken away. If the teacher had been in any other profession—a doctor, a lawyer, a street sweeper, anything else, that offset would not have hap-

pened. I don't see it as unfair. It is to do what the law says, and now you have taken that away from them.

Mr. HULSHOF. Reclaiming my time, Mr. Sandlin, and I have yielded you time to explain. I stand corrected—it was not the Inspector General, Mr. Chairman, it was the U.S. Government Accountability Office (GAO) in hearings that you have conducted that we participated in. Let me talk just a little bit about fairness and, Mr. Gerry, bring you into this because I want to—let's put this on the record and make sure that my information is accurate. In fact, in the next panel we have testimony that about one-third of teachers pay into a government employee pension plan that substitutes for Social Security. Is that a fairly accurate percentage?

Mr. GERRY. I honestly don't know.

Mr. HULSHOF. I believe the testimony we are going to have is roughly—is that right, Mr. Brady, that roughly a third of teachers pay into a substitute, two-thirds of teachers across the country pay into Social Security. Do you believe, Mr. Gerry, that Mr. Brady's bill, H.R. 4391, helps ensure that both groups of teachers are treated more equally as far as terms of how much of their Social Security taxed wages would be, benefits would be replaced?

Mr. GERRY. I think, of course, I would like to answer yes, but part of the problem I have is with this question of how it will actually be administered and what Congress wants to do. Certainly that is its goal, and logically it should do that. For people—I would say that for individuals not affected by the pre-1978 earnings question, certainly I think that would be a reasonable conclusion to draw, that they would be more fairly and more individually affected. When you get to people with pre-1978 earnings, the problems that I have been identifying get to the very heart of the whole idea, which is making it specific to the individual. When you start assuming or assigning averages then you may get back to the same problem we have now.

Mr. HULSHOF. Well, in conclusion I would say that perhaps a point of agreement that I could reach with my friend from Texas is that we understand this is an arbitrary line, that when WEP was created back in 1983, this was an arbitrary line, and it has taken us 21 years to get here. I would hope that it will not take us 21 years to get to a point where we could actually—where we can fix this. If we are talking about fairness, Mr. Chairman, my belief is that teachers who pay into a Social Security substitute and those that pay into Social Security should be treated on an equitable basis. I think complete repeal, as many have advocated, seems to suggest that some teachers deserve more generous Social Security benefits than others. I think ultimately we are trying to find that fair approach. Again, Mr. Brady, I commend you because I think your bill does just that. I yield back. Thank you, Mr. Chairman.

Chairman SHAW. Mr. Becerra.

Mr. BECERRA. Thank you, Mr. Chairman, and Mr. Gerry, thank you very much for being here again. You are right, this is a complicated issue, and I suspect that few people—maybe even those sitting in this room, but I suspect most sitting in this room are either affected by it or are here for a particular reason with regard to WEP and GPO. I suspect most people, if they happen to be

watching this hearing, don't quite understand what is going on. In the 5 minutes that I have to ask you questions, I probably can't help you edify all those who are watching a great deal more.

Let me ask this. When you mentioned that it would cost 2,600 work years or that it would take 2,600 work years to recalculate or to try to give us a formula and be able to calculate the Social Security benefits for folks affected by WEP, what does that mean—and that is 2,600 work years over 5 years. Does that mean something over 500 full time person working hours for 5 years?

Mr. GERRY. Yes, it would. Well, that would be the average. This is assuming, now, that we take H.R. 4391 as it stands. That would include the work on the pre-1978 earnings. I just want to make that clear, because we have had some estimates, and some of them include pre-1978 earnings and some don't. I am including that.

Mr. BECERRA. Let me make sure I try to focus. I am trying to make sure I understand this, 2600 work years over 5 years?

Mr. GERRY. Right.

Mr. BECERRA. That straight calculation would be 520 work years—or 520 people working 1 year for 5 years. Five hundred twenty.

Mr. GERRY. Well, it is really 2,630 people working for a year. The elapsed time over which they would work is 5 years.

Mr. BECERRA. Right, so 2,600 new—would they be exclusively working on this issue?

Mr. GERRY. Yes. That is the amount of time it would take to make all the calculations.

Mr. BECERRA. These 2,600 people would not be doing other SSA tasks.

Mr. GERRY. Right.

Mr. BECERRA. Like making sure benefits are paid to those Social Security recipients, making sure that problems with receipt of benefits are handled, problems for those who are survivors or disabled individuals, this 2,600 new people that we need for 5 years would simply be to try to get this bill up and running?

Mr. GERRY. Well, whether they were new or existing that is what they would do for 5 years.

Mr. BECERRA. Okay, well, if they are existing, then you are pulling them off of something else?

Mr. GERRY. That is right.

Mr. BECERRA. Let me make sure. To try to make sure that we continue to do all the functions that the SSA has today and do what this bill provides, we have to find moneys to pay 2,600 additional people for the next 5 years.

Mr. GERRY. I think it is a fair way to state it.

Mr. BECERRA. Just trying to get a sense of what we are looking at doing, because as it is, I know we all in our own particular district offices get folks who have constant concerns about their existing benefits and getting their payment and so forth. I just wanted to make sure I understood that correctly. How can we calculate the salaries and payments into a non Social Security covered work before 1978? What is your best sense of how we can do that, aside from what you mentioned before, which is an average, take the average salary for that particular position?

Mr. GERRY. The agency has looked at, and I know in one case communicated—three different approaches that I am aware of. One is to simply ignore pre-1978 earnings for everybody. That is an approach. It costs more money; it is much simpler to do. The work year estimates, for example, would drop to 740 from 2,630 if we ignored these earnings. The amount of money that we would end up paying in benefits would be significantly higher.

Mr. BECERRA. Let me stop you for a second. Are you saying that the 2,600 work year number that you have given us includes doing the work to calculate prior to 1978?

Mr. GERRY. Yes.

Mr. BECERRA. Okay, good.

Mr. GERRY. As best we can estimate it.

Mr. BECERRA. Thanks for that clarification.

Mr. GERRY. Okay, so if we didn't do that, it would drop.

Mr. BECERRA. How do you—

Mr. GERRY. On the other hand, the cost, that is, the amount of money that we would pay out. One way of putting it is that establishing pre-1978 earnings, when they exist, always results in either the same or a lower. Not doing that has to result in significant increases in benefit amount program costs.

Mr. BECERRA. How would you secure the participation or cooperation of workers in attempting to secure records for pre-1978 work?

Mr. GERRY. We would use our best efforts to ask people. If that is what Congress required us to do, we would have to use our best efforts to persuade people to voluntarily come forward and do that.

Mr. BECERRA. You become not the SSA but the Internal Revenue Service (IRS), probably, in the minds of a lot of these folks, I suspect.

Mr. GERRY. I am not sure how voluntary IRS participation is. Something like that. The second approach—you were asking me about the three, and I gave you the first one. The second approach, which I know has been outlined in a letter from the actuary, would be to have a situation where people would have a choice of either proving what their earnings were or staying with the existing rule. That would really get at the point you are making, which is it would put the option with the individual, who would then have an interest in trying to find all this data if they wanted to come in and take advantage of the different formula. That is another approach.

Obviously, that would have significant administrative savings for us because, the burden would be on the worker to show us what the earnings were, rather than for us to go out and try to find that data. Now, it obviously means that for workers who don't have the data and have no way to get it, they really don't have that choice.

The third approach is this assigned-average idea, that instead of either of the other two approaches, we would treat pre-1978 earnings by either looking at the years of work that we do have records of and assuming that the same level exists for the years we don't have records of. That would be one approach; or looking at the profession, like teachers, and—take the Texas teachers situation—saying that in 1972 the average Texas teacher earned this amount of money and so we will assume that that is the amount of money the individual earned. Now, those are the only approaches that I know

of. It is either, forget about the pre-1978 earnings, have this choice, or use some way of imputing a value when you don't have the data. I think that covers the options that I can see.

Mr. BECERRA. I guess the one concern I would have in how we implement this—and I will end with this, Mr. Chairman—is that if we are projecting that this bill could cost about \$10 billion in order to try to provide some fairness to all those folks who have retired and are seeing this offset, we are going to have to—and the sponsors have said, they are going to find an offset to pay for this, I hope what we don't do is try to look within Social Security to try to find the offset, because it is already difficult to find \$7 billion to continue to pay the benefits that people are entitled to and into the future. Thank you for your testimony. Mr. Chairman, I thank you for the time.

Chairman SHAW. I want to tell all Members that the clock down in front of the witness is not working, but the clock in front of me is working, and you went 3 minutes over. Mr. Brady?

Mr. BRADY. Thank you. Look, I think this is a good line of questioning. Two thoughts for Mr. Gerry. One, did you get a chance to see the Congressional Research Service (CRS) report on who would benefit from this bill that was released yesterday?

Mr. GERRY. Yes.

Mr. BRADY. What it says—

Mr. GERRY. Well, I am sorry, Mr. Brady. I have heard about what was said. I haven't read it.

Mr. BRADY. Okay. Just studying it, what it says, I have two points to make, really. One is on the costs. We will come to this. What CRS basically says is, running the estimates, that minimum-wage workers and low-wage workers will receive the greatest-percent increase in Social Security under this bill, compared to current law; that average-wage workers with up to 27 years in that second job, their non substitute job, would also receive more than they do today; and that high-wage workers with up to 23 years of covered earnings would also receive benefits greater than they would today, which is a major part of the 750,000 people who are affected by the WEP.

If you would take a look at those numbers and how CRS came to that, those are consistent with the numbers the Subcommittee has run in our offices. Any thoughts you have, because, again, everyone is individual. It is hard to do averages—which is the whole intent of this bill, by the way, but if you take a look at those computations and let us know any thoughts you have, that would be helpful.

Second point on cost. One, I think, compared to the unfairness of it, I think the administrative costs are small compared to the unfairness of what people haven't received under the windfall provision. Two, the costs, the \$190 million, the 2,600 work years, seem awfully high. Over the next 5 years what that works out to is \$250,600 for each person affected by WEP. One, let this be my bid to do it for half of that for each of those workers; and second, it seems to me that we have an opportunity to allow workers to do their own computations. I know that since we have introduced the bill, we have had thousands of teachers contact us. A number of them pulled down your own computation worksheet to figure out,

those born in 1940, their own figures. I think providing people the option to reconstruct their work wages is a very viable option.

The final point is it seems to me this problem gets smaller each year. Obviously, as more and more work records are absolutely accurate and very accessible, this becomes a small problem. You will have to re-calculate figures if WEP is repealed as well. What this does is—no question, I think the point you make is a good one. We have to do a lot of work to make sure it is accurate to each person. That is my point. I think it is worth doing work to make it accurate to each person, because most of these people in this room today think their Social Security really is based on their actual work record—not an average, or a formula, or some estimate. I think it is important that we work through this, any suggestions on more flexibility, any opportunities for working to have accurate records, any coordination with the IRS or the ability for a person to request their IRS records to complete their own work record, I think, would be very helpful. With that, I yield back, Mr. Chairman.

Mr. GERRY. Let me just say, Mr. Brady, that we would be happy to look at the data and I would be happy to sit down and talk with you about it after we do. I would be happy at any point in time with any Members of the Committee to talk about how to do this. This is a difficult task, and I think a dialog from time to time between us would be good. I think we appreciate the goal that the bill is attempting to achieve, and perhaps together we can come up with some other strategies.

The difficulty, as much as I agree with you that it probably makes sense to do the work, is whether, even if we do the work, we can still arrive at a number that is going to really represent the individual. Right now it still appears to me that we are going to reach a point where we need to decide and this is something I think Congress rather than the agency probably has to focus on. When in doubt, do we basically assume the average or do we assume up? In other words, is the goal to ensure that no one gets an unfairly low amount of pension or too large an offset? When we get to certain groups of cases, we may end up giving some people some amounts that might be higher than if we had all the individual data, in order to ensure that no one would get an amount that is too low.

Mr. BRADY. I think, Mr. Gerry, to conclude, the goal is to get people the most accurate Social Security benefit based on their actual complete work records. I think we can do that for far less than has been estimated today for those beneficiaries. I look forward to working with you on that. Thanks.

Chairman SHAW. I think it is important—just a point of clarification, for people outside of this room listening to these proceedings that it is important to point out that we do have complete records as to Social Security earnings. Nobody should think that they paid into Social Security and there is no record of that, because there certainly is. What Mr. Gerry is talking about is non Social Security wages. Why is that important? It is important because when you take the highest 35 years of earnings to calculate whether someone is high-income or low-income, this can make a big difference. Particularly, most people prior to 1978, who are still in the workforce, made probably a lot less than they are making today.

It would be to their advantage to have their average amount of earnings reduced because of the progressiveness within the system itself.

I think when you bring out the point that you can ask people to supply you with that information, almost totally it would be to their advantage to do so. I think that probably would work. If we don't make an attempt to learn exactly what those wages were prior to 1978, it is probably going to—for most people, it will be unfair to them as to the benefits that they would receive. What we are trying to do, and our objective here under this bill, is to give people the benefits they paid for. It is plain and simple.

Ms. TUBBS JONES. Mr. Chairman, thank you. I would like to also request unanimous consent to submit an opening statement for the record.

Chairman SHAW. Without objection. All Members—and I didn't mean to cut you off on that—all Members by unanimous consent without objection can put whatever opening statements into the record they like. Now, I am talking about Members of this Committee.

Ms. TUBBS JONES. Thanks, Mr. Chairman. How are you today, sir?

Mr. GERRY. Fine, thank you, Ms. Tubbs Jones.

Ms. TUBBS JONES. Good. You seem to propose three possible options. As we do on our tax forms, we have options of taking a deduction, we can take an itemized deduction, we can take a deduction that is kind of general across-the-board, based on our income, and so forth. Have you contemplated the possibility of giving people one of these options on the way in which they would calculate their Social Security for purposes of looking at an offset?

Mr. GERRY. Well, we have looked at each of those three categories, the ones that I mentioned, which would be completely ignoring pre-1978.

Ms. TUBBS JONES. We don't have a lot of time, so I don't want you to go back through the three.

Mr. GERRY. Yes, we have looked as best we can at what the implications would be of doing each. Now, we haven't done the calculations, but, and we wouldn't know, one of the options, remember, was a choice by the worker. It would have to be based on our estimate of the choices that would be made.

Ms. TUBBS JONES. Understood. Do you see it as a possibility that there could be any of those options that a worker could choose which way you would calculate?

Mr. GERRY. Well, I think the worker option—I want to separate that from what I would say is the Congress's option. The options that I was looking at were options that Congress could consider.

Ms. TUBBS JONES. No, no, back up a minute. What I am saying is these are options that the Congress could consider, but one of the options that Congress could consider would be to allow the worker to submit information for purposes of a calculation.

Mr. GERRY. That is right, and the proposal was to allow the worker to submit information, or go with the current WEP formula, so it would be a choice.

Ms. TUBBS JONES. This is a significant issue for people across the country, not just in Texas but across-the-board, because I con-

stantly have people coming into my congressional office saying, Congresswoman, why can't I get the wages of my husband? He didn't get them; I ought to be able to get them. I shouldn't be stuck with wages that are much lower, particularly when you begin to look at women who have been in the workforce and their salaries or their income have been probably 7 cents on the dollar of the income of men, and women tend to get penalized more often than men do, when you begin to calculate Social Security or the amount of money that they are going to receive on retirement. Is that a fact?

Mr. GERRY. Well, what you are describing I think is the GPO problem, which is what happens to a spouse who has—

Ms. TUBBS JONES. That is why we are here.

Mr. GERRY. Well.

Ms. TUBBS JONES. Or that is part of the discussion we are having today, though, right?

Mr. GERRY. Yes. I just wanted to separate it from the discussion on the WEP that we are having. I think they are related, but they are two different issues. The equity issues exist in both, but the provisions are quite different. In the example that I think you were giving, Congress adopted the theory of dual entitlement in the GPO approach. The reduction is at two-thirds, so it is not a dollar for dollar, but does reduce the Social Security benefit that a spouse can receive based on a non-covered government pension. In the case of Social Security, it is of course a direct offset, the dual entitlement provision. They are related.

Ms. TUBBS JONES. Conceptually, then, we could end up when we come through this process in a similar problem that the notch people, or notch babies, are faced with in that we are unable to explain to them as to how we calculate or allocate Social Security for people.

Mr. GERRY. I wouldn't want to compare them, but I think we could come through and have a problem that would not be easy—

Ms. TUBBS JONES. I am not comparing, but—

Mr. GERRY. I think it is very hard for people to understand this now, and I think it is going to remain complicated for most people to understand.

Ms. TUBBS JONES. The process is complicated, but the dollar signs are not complicated. People understand "more money" or "less money" or "no money." I think the obligation is on us, and I think you are hearing from every Member of this panel, that we must resolve and work this issue out, because the people of the United States deserve some resolution to have this completed. Fair?

Mr. GERRY. It seems fair to me, and I think obviously the Subcommittee is approaching it that way. It seems—I guess my only point would be that what we would like to do is, in any way that we can, be helpful to the Subcommittee in figuring out the best way to do that.

Ms. TUBBS JONES. Including following whatever instructions we ultimately decide that you need to do to get this done, right?

Mr. GERRY. Absolutely.

Ms. TUBBS JONES. Okay. Thank you, Mr. Chairman, I appreciate it.

Chairman SHAW. Good move. You passed the buck right back to us. Okay.

[Laughter.]

Chairman SHAW. Mr. Gerry, thank you very much for your testimony. We now have a panel of witnesses, if they would come up and take a seat at the table. Terry Hickman, who is the President of the Nevada State Teachers Association (NSEA), and he is appearing on behalf of the NEA; Randall Iglehart, who is the State President of the ATPE in Austin, Texas; Chuck Canterbury is National President of the Grand Lodge Fraternal Order of Police (FOP); and George Avak, who is the President-Elect of the California Retired Teachers Association (CRTA), Sacramento, California. Welcome to all the witnesses. As is my custom, I may have mispronounced some of your names, and you can correct me when you are called upon, if you would. We have your full written testimony, which will be placed in total in the record, and you may proceed as you see fit.

I am going to try—is the other side of that clock working down there? Nothing is working? Anyway, I think all of you have been instructed to be with us for 5 minutes of direct testimony and then being available for questioning. We appreciate that. Mr. Hickman, you may proceed.

**STATEMENT OF TERRY HICKMAN, PRESIDENT, NEVADA STATE EDUCATION ASSOCIATION, LAS VEGAS, NEVADA, ON BEHALF OF NATIONAL EDUCATION ASSOCIATION**

Mr. HICKMAN. Good morning, Chairman Shaw and Members of the Subcommittee. Thank you for the opportunity to speak with you today about the Public Servant Retirement Protection Act. My name is Terry Hickman. I am a high school counselor. I am President of the NSEA, and I am here today on behalf of the 22,000 members of the NSEA, the 2.7 million members of the NEA, and my own family.

I am pleased to speak today in support of the Public Servant Retirement Protection Act. This legislation represents a critical first step toward addressing the harsh impacts of the WEP as well as the GPO. As you know, the WEP reduces the earned Social Security benefits of an individual who also receives a public pension from a job not covered by Social Security. I am a prime example of the impact of WEP. Years ago, when my wife and I were just starting out, I began teaching in Lake Tahoe, Nevada. I loved teaching, and I was thrilled to have my first job in Lake Tahoe. I was equally passionate about my students as well as building up my support for my own family.

In my second year of teaching, my wife and I decided we needed some additional income in order to buy our first home, and to fulfill her lifelong dream of going to college. Rather than incurring large debt, we decided that I would take a second job. For nearly 10 years, I worked two jobs—teaching or in counseling every day until 2:30 p.m., and managing a health and fitness center in a casino until 10 p.m. four nights a week.

The hours were tough, but the rewards were well worth the sacrifice. Not only were my wife and I able to purchase our first home in which to raise our family, but my wife was able to graduate from

college and become a teacher herself. I was never more proud than the day that I watched my wife receive her diploma. Family came from across the United States to see her walk across the stage, because she had worked—we had worked as a family together to pull together the resources to make her dream come true. I was also very proud that I believed that by working the second job, I was working to make a difference for my family and for long-term security for my wife and myself. My job at the casino was covered by Social Security, and I had earned the 40 quarters necessary to qualify for benefits.

I was quite surprised and disappointed to hear and to learn that the public teaching pension from Nevada would result in a loss of a significant portion of my Social Security benefit. I was further shocked to hear that some policy makers justified this offset by referring to my Social Security benefit as a windfall, or double dipping. It is unfathomable to me that Congress considers the benefits that I earned at two separate jobs to be double dipping. It seems only fair that if I worked two jobs that I should be able to collect the benefits that I earned. It is even more unbelievable that Congress would penalize me for my values of hard work and the family values that we had of dedication as a family to work together for my community and also for our country.

Sadly, my story is not unique in Nevada or for many other States. As President of the NSEA, I have gotten phone calls from members devastated by the news that they are going to lose or sometimes almost all their benefits from Social Security. Like me, these educators entered the profession because of their desire to have an impact on the Nation's children. They often ask me to do something about it as President. Some of you have received e-mails today from those in Nevada and other States who are so concerned about this provision, the WEP.

The WEP has an impact far beyond the individuals losing benefits. Perhaps the most alarming problem that we face is the fact of recruiting new teachers into the profession. Like many States, Nevada is the fastest-growing State and certainly needs more teachers. It is surprising when I get phone calls, especially—not too long ago I got a call from a couple in Minnesota who wanted to move to Las Vegas. After I asked them, do you live in a Social Security State, and explained to them the penalties that they could receive, they were no longer willing to move to Nevada. When we need teachers the most, we have to pull out the welcome mat in Nevada because of the benefits that they could lose if they come from a Social Security State.

The NSEA has formed a strong coalition with our State retirement system, and together we regularly publicize the fact that public service in Nevada can lead to a significant loss of one's Social Security benefits. I would like also to just take a moment to address the GPO. The GPO also penalizes individuals who have dedicated their lives to public service. This offset has the harshest impact on those who can least afford the loss—lower-income women.

Given the unacceptable impact of the WEP and GPO on so many of our Nation's teachers, NEA supports the Public Servant Retirement Protection Act as a critical first step toward repeal of both offsets. NEA is very pleased to see such strong bipartisan support

for this important legislation, and we thank the Chair and the Committee Members, especially Congressman Kevin Brady, for their efforts to bring this legislation forward. The NEA supports the Public Servant Retirement Protection Act as a first step toward full repeal of the GPO and WEP. We believe it will result in a significant benefit for those educators and public employees in Nevada and the other states. I can say, from my own calculations, that I believe I will receive several hundred dollars more a month if this bill comes to fruition.

On behalf of NEA, NSEA, and my family, I wish to thank you for the opportunity to share my thoughts. My wife and I made the right decision many years ago. We valued hard work, we valued our family, we valued our first home, and we valued her college education. We now ask the Committee to move quickly to mark up Public Servant Retirement Protection Act and move it swiftly to final passage and enactment. Thank you.

[The prepared statement of Mr. Hickman follows:]

**Statement of Terry Hickman, President, Nevada State Education Association, on behalf of National Education Association**

Chairman Shaw and Members of the Subcommittee:

On behalf of the National Education Association's (NEA) 2.7 million members, I would like to thank you for the opportunity to speak with you today about the Public Servant Retirement Protection Act (H.R. 4391).

My name is Terry Hickman and I am a high school counselor and the President of the Nevada State Education Association (NSEA). I am here today on behalf of myself, the more than 22,000 members of NSEA, and the 2.7 million members of the National Education Association.

I am pleased to speak today in support of the Public Servant Retirement Protection Act. NEA believes this legislation represents a critical first step toward addressing the harsh impacts of the Windfall Elimination Provision (WEP) as well as the Government Pension Offset (GPO).

**The Windfall Elimination Provision: An Unfair Penalty for Public Service**

As you know, the WEP reduces the earned Social Security benefits of an individual who also receives a public pension from a job not covered by Social Security. Congress enacted the WEP ostensibly to remove an advantage for short-term, higher-paid workers under the original Social Security formula. Yet, instead of protecting low-earning retirees, the WEP has unfairly impacted lower-paid retirees such as educators.

I am a prime example of the impact of the WEP. Years ago, when my wife and I were just starting out, I began teaching in Lake Tahoe, Nevada. I loved teaching, and was passionate about working with children. I was equally passionate about building and supporting my family.

In my second year of teaching, my wife and I decided we needed some additional income in order to buy our first home and to fulfill her dream of going to college. Rather than incurring large debt, we decided that I would take a second job. For ten years, I worked two jobs—teaching every day until 2:30pm and managing a health and fitness center at a casino until 10:00pm four days a week. The hours were tough, but the rewards were well worth the sacrifice. Not only were my wife and I able to purchase a home in which to raise our family, but my wife was able to graduate from college and become a teacher herself. I was never more proud than the day I watched my wife receive her diploma, because I knew how hard she had worked, and how we had pulled together as a family to make her dream come true.

I was also proud because I believed that by working two jobs for so long, I had made a real contribution to our family's long term security. My job at the casino was covered by Social Security, and I had earned the 40 quarters necessary to qualify for benefits. So, I was quite surprised to learn that my eventual receipt of a public teaching pension from Nevada would result in the loss of a significant portion of my hard-earned Social Security. I was further shocked to hear some policymakers justify this offset by referring to my Social Security benefits as a "windfall" or "double dipping."

It is unfathomable that Congress considers the benefits I earned at two separate jobs to be double dipping. It seems only fair that if I work two jobs, I should be able to collect the benefits I earned. It is even more unbelievable that Congress would penalize me for my values of hard work and dedication to my family, my community, and my country.

Sadly, my story is not unique in Nevada or in many other states across the nation. As president of NSEA, I get phone calls every week from members devastated by the news that they will lose Social Security benefits they had counted on for their retirement. Like me, these educators entered the profession because of their desire to have an impact on our nation's children, often at considerable financial sacrifice. They often ask me to do everything I can to get the WEP and GPO repealed.

#### **The National Impact: Undermining Teacher Recruitment Efforts**

The WEP has an impact far beyond the individuals losing benefits. Perhaps most alarming, the offset is impacting the recruitment of quality teachers. Like many states, Nevada is facing a shortage of qualified teachers, and is looking for ways to attract the best and the brightest to teach in Nevada. Yet, while policymakers are encouraging experienced people to change careers and enter the teaching profession, individuals who have worked in other careers are less likely to want to become teachers if doing so will mean a loss of Social Security benefits they have earned.

I see the impact on Nevada first hand. In addition to the calls I receive from NSEA members impacted by the WEP and GPO, I receive many calls from teachers looking to move to Nevada and from individuals looking to enter teaching from the military or other professions. I now advise these callers to think long and hard before making such a move, because of the negative impact of the offsets on any Social Security benefits they have earned.

In addition, our state retirement system has just mandated that anyone new to the system be informed of the penalties that may result from the Social Security offsets by taking a public service job in Nevada. NSEA has formed a strong coalition with the state retirement system and, together, we regularly publicize the fact that public service in Nevada can lead to a loss of a significant portion of one's Social Security benefits.

#### **The Government Pension Offset: Another Unfair Penalty**

Although the bill under consideration today does not address the GPO, a discussion of the offsets must include a mention of this other unfair penalty. The GPO reduces Social Security spousal or survivor benefits by two-thirds of the individual's public pension. Thus, a teacher who receives a public pension for a job not covered by Social Security will lose much or all of any spousal survivor benefits she would expect to collect based on her husband's private sector earnings.

Congress and the President agreed in 1983 to reduce the spousal benefits reduction from a dollar-for-dollar reduction to a reduction based on two-thirds of a public employee's retirement system benefits. This remedial step, however, falls well short of addressing the continuing devastating impact of the GPO.

The GPO penalizes individuals who have dedicated their lives to public service. Nationwide, more than one-third of teachers and education employees, and more than one-fifth of other public employees, are not covered by Social Security, and are, therefore, subject to the GPO.

Estimates indicate that 9 out of 10 public employees affected by the GPO lose their *entire* spousal benefit, even though their deceased spouse paid Social Security taxes for many years. Moreover, these estimates do not include those public employees or retirees who never applied for spousal benefits because they were informed they were ineligible. The offset has the harshest impact on those who can least afford the loss: lower-income women. Ironically, those impacted have less money to spend in their local economy, and sometimes have to turn to expensive government programs like food stamps to make ends meet.

NEA receives hundreds of phone calls and letters each month from educators impacted by the GPO. In Nevada, I also am contacted by many widows and widowers struggling to survive on incomes close to poverty and fearing they will be unable to cover their housing, medical, and food expenses on their meager incomes.

#### **The Public Servant Retirement Protection Act: An Important Step**

Given the unacceptable impact of the WEP and GPO on so many of our nation's teachers, the National Education Association supports the Public Servant Retirement Protection Act as a critical first step toward repeal of both offsets. NEA is very pleased to see such strong bipartisan support for this important legislation, and we thank the chair and committee member Congressman Kevin Brady for their efforts in bringing this legislation forward.

H.R. 4391 would eliminate the current WEP offset formula and would apply the same formula currently used to calculate non-impacted individuals' benefits. It would then reduce the benefit by the percentage of indexed earnings that came from work not covered by Social Security. The bill includes a "hold harmless" provision guaranteeing that no person who already has earnings from any non-Social Security employment will receive less in benefits than they would under the current system.

NEA supports the Public Servant Retirement Protection Act as a first step toward full repeal of both the GPO and the WEP. We believe it will result in a significant benefit increase for many educators and other public employees.

We do, however, believe that several issues must be addressed as the bill moves forward. First, we look forward to working with the committee to resolve issues regarding the availability of earnings information from jobs not covered by Social Security. It is critical that the legislation address how the Social Security Administration will determine earnings from non-covered work in calculating benefit levels.

Second, we urge the committee to pay for the WEP fix in a manner that does not further exacerbate the unfair impact of the WEP and GPO. We would strongly oppose any effort to pay for this legislation through additional enforcement of these discriminatory offsets.

#### **Conclusion**

On behalf of NEA, NSEA, and my family, I thank you for the opportunity to share my thoughts with you today. I urge the committee to move quickly to mark-up the Public Servant Retirement Protection Act and move it swiftly to final passage and enactment. Furthermore, I ask that you please look for ways to repeal completely both the WEP and the GPO as Congress continues to explore these issues.

Thank you.

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Chairman SHAW. Thank you. Here is the name I am worried about mispronouncing.

Mr. IGLEHART. Iglehart.

Chairman SHAW. I did it.

Mr. IGLEHART. That is correct. You did an excellent job with that.

#### **STATEMENT OF RANDALL IGLEHART, STATE PRESIDENT, ASSOCIATION OF TEXAS PROFESSIONAL EDUCATORS, AUSTIN, TEXAS**

Mr. IGLEHART. Mr. Chairman, Committee Members, my name is Randall Iglehart and I thank you for the opportunity to be here today to testify in support of H.R. 4391. I am here as president of the ATPE, the largest professional educators association in Texas. We are the largest non-union independent educators association in the Nation. I have been a public educator for over 28 years. I teach English, limited English proficient students, at Mark Twain Middle School in San Antonio Independent School District.

The ATPE supports H.R. 4391 because it addresses a problem in current law that reduces the Social Security benefits of individuals eligible for government pensions, such as those provided through the Teacher Retirement System (TRS) of Texas. Currently, only 45 of nearly 1,100 Texas public school districts participate in both Social Security and TRS. However, many public educators have earned Social Security benefits by working second jobs or from private-sector jobs they held before teaching.

The WEP reduces the Social Security benefits of these folks by imposing an arbitrary formula on their benefits. Under this formula, a person who merely meets the minimum eligibility requirements for a government pension could face the full effect of the WEP formula, reducing his benefit by as much as \$300 per month.

The ATPE believes the WEP acts as a deterrent to talented private-sector employees who are vested in Social Security and are interested in teaching as a second career, as well as to professional educators from states that pay into Social Security who are thinking about moving to Texas to teach.

Texas is facing a teacher shortage approaching 50,000. The State recently cut benefits for active and retired educators due to State budget cuts last year, and retirements are at an all time high. The ATPE believes we must take steps to recruit and retain the brightest individuals into the classroom to ensure that every Texas student receives an exemplary education. The ATPE supports H.R. 4391 because it repeals the WEP, and replaces it with a formula that figures government employee Social Security benefits in the same way the benefits of private-sector employees are figured. The Public Servant Retirement Protection Act will help the State of Texas recruit and retain qualified public educators from other professions and from other States, and Lord knows we need that.

The ATPE thanks Representative Brady and Representative Johnson and the co sponsors of H.R. 4391 for working with our association toward ending the inequities of the WEP. However, because H.R. 4391 does not address the GPO, we urge your support for an amendment to the bill that will address the harsh effects of the GPO on public educators. By reducing the spousal or widow Social Security benefits of persons eligible for government pensions by two-thirds of the amount of the pension, the GPO eliminates spousal or widow benefits for many retired Texas public educators. The GPO has caused an enormous strain on the morale of public educators in Texas, causing a potential doubling of the retirement rate in 2004, as projected by the TRS.

Many experienced educators recently retired to meet the July 1, 2004, deadline in H.R. 743. By retiring by that date and working their last day in a district that pays into both TRS and Social Security, they avoided the GPO. Many other educators are leaving the profession early and cashing in their TRS accounts to avoid the GPO. The ATPE urges this Subcommittee to amend H.R. 4391 to lessen the effects of the GPO on public educators. Now, although we support total repeal of the GPO, as is accomplished by H.R. 594, a bill that now has 300 cosponsors, we have included several suggestions for compromise in our written testimony. This would bolster teacher morale and encourage qualified public educators to remain in the classroom.

The ATPE thanks the Members of the Subcommittee for this opportunity to participate in this hearing and for your willingness to receive our input on this critical issue that affects so many public educators. We urge you to amend and pass H.R. 4391 during the 108th Congress. Educators are the most important resource in providing children with the knowledge they will need to succeed in life, and your efforts to protect their retirement benefits will have a lasting impact on the quality of the education received by students in the public school system. Thank you.

[The prepared statement of Mr. Iglehart follows:]

**Statement of Randall Iglehart, State President, Association of Texas Professional Educators, Austin, Texas**

The Association of Texas Professional Educators (ATPE) is the largest professional educators' association in Texas. With more than 100,000 members, we are also the largest non-union educators' association in the nation. ATPE is committed to: advocating for better benefits for all educators; promoting a collaborative work environment; the right of educators' to choose the association they feel represents their interests; and providing the best education possible for Texas children. We thank you for the opportunity to provide input to the Subcommittee on HR 4391, the Public Servant Retirement Protection Act (PSRPA).

ATPE supports HR 4391 as a step toward addressing the inequities in current law related to the Social Security benefits of individuals eligible for government pensions, such as those provided through the Teacher Retirement System of Texas (TRS). In Texas, it is mandatory for public school employees to contribute 6.4 percent of their pay to the TRS system. Currently, only 45 Texas public school districts also participate in Social Security. However, many public educators have earned Social Security benefits by working second jobs or from private-sector jobs they held before teaching.

The Windfall Elimination Provision (WEP) reduces the Social Security benefits of persons who have worked in jobs that pay into the Social Security system and in jobs that do not. The WEP imposes an arbitrary formula on these individuals that is based partially on the number of years they paid into Social Security rather than the amount they will receive from their government pensions. That means that a person who worked in a Social Security-covered job for 20 years but who is also eligible for a government pension benefit of \$500 per month will have his Social Security benefit reduced by the same amount as a person who paid into Social Security for 20 years but will receive a government pension benefit of \$1,200 per year. Under this formula, a person who merely meets the minimum eligibility requirements for a government pension could face the full effect of the WEP formula, reducing his benefit by as much as \$300 per month.

ATPE believes the WEP acts as a deterrent to talented, private-sector employees who are vested in Social Security and are interested in teaching as a second career, as well as to professional educators from states that pay into Social Security who are thinking about moving to Texas to teach. Furthermore, it arbitrarily punishes those who have worked to become vested in both Social Security and government pensions. Texas is facing a teacher shortage approaching 50,000, the state recently cut benefits for active and retired educators due to state budget cuts last year and retirements are at an all-time high. ATPE believes we must take steps to recruit and retain the brightest individuals into the classroom to ensure that every Texas student receives an exemplary education.

Some suggest that mandating all public school employees to participate in Social Security would solve the controversy surrounding the Social Security offsets. ATPE emphatically disagrees and opposes mandating Texas educators into the Social Security system. Texas is one of 13 states where Social Security participation is not required of all public school employees. In those 13 states, contribution rates, retirement formula multipliers and cost-of-living adjustments (COLAs) are higher than in Social Security states. These higher rates are established by state legislatures to make up for the lack of this important federal retirement benefit.

ATPE believes the additional fiscal demands that mandatory Social Security coverage would require of the state would ultimately be reconciled through smaller state contributions to TRS and larger contributions from active and retired educators. This would produce additional strain on an already overworked and under-appreciated profession and could have a devastating effect on the actuarial soundness of the TRS fund, reducing benefits for TRS members.

ATPE supports HR 4391, the PSRPA, because it repeals the WEP and replaces it with a formula that figures government employees' benefits in the same way the benefits of private sector employees are figured. By considering the complete earnings history of a worker, in both covered (by Social Security) employment and non-covered employment, when determining average monthly earnings over a worker's lifetime and applying the same formula percentage to all workers, the PSRPA will mean greater benefits for public educators qualified for Social Security benefits.

The new formula under the PSRPA is a fair compromise between the arbitrary WEP and total repeal and will help the state of Texas recruit and retain qualified public educators from other professions and from other states. ATPE thanks Rep. Brady and the cosponsors of HR 4391 for working with our organization toward ending the inequities of the WEP.

However, because HR 4391 does not address the Government Pension Offset (GPO), we urge your support for an amendment to the bill that will address the harsh effects of the GPO on public educators. By reducing the spousal or widow Social Security benefits of persons eligible for government pensions by two-thirds of the amount of the pension, the GPO eliminates spousal or widow benefits for many retired Texas public educators. The GPO has caused an enormous strain on the morale of public educators in Texas causing a potential doubling of the retirement rate in 2004 as projected by the TRS. Many experienced educators recently retired to meet the July 1, 2004, deadline in HR 743. By retiring by that date and working their last day in a district that pays into both TRS and Social Security, they avoided the GPO. Many other educators are leaving the profession early and cashing in their TRS accounts to avoid the GPO.

ATPE urges this Subcommittee to amend HR 4391 to lessen the effects of the GPO on public educators. Suggestions include total repeal of the GPO, an exemption for public educators, or a partial repeal that would exempt widows and those with combined pension and spousal benefits that fall below a certain level.

HR 594, the Social Security Fairness Act, is legislation that would repeal both the WEP and the GPO. That bill now has 300 bipartisan cosponsors, including several of the cosponsors of HR 4391, but the bill has yet to be marked up by this Committee and debated on House floor. ATPE is hopeful that both HR 4391 and legislation to address the GPO will pass the 108th Congress and become law. This will bolster teacher morale and encourage qualified public educators to remain in the classroom.

ATPE thanks the members of this Subcommittee for the opportunity to participate in this hearing and for your willingness to receive our input on this critical issue that affects so many public educators. Educators are the most important resource in providing children with the knowledge they will need to succeed in life, and your efforts to protect their retirement benefits will have a lasting impact on the quality of the education received by students in the public school system.

Chairman SHAW. Thank you, Mr. Iglehart. Mr. Canterbury?

**STATEMENT OF CHUCK CANTERBURY, NATIONAL PRESIDENT,  
GRAND LODGE FRATERNAL ORDER OF POLICE**

Mr. CANTERBURY. Good morning, Mr. Chairman, and distinguished Members of the House Subcommittee on Social Security. My name is Chuck Canterbury. I am the National President of the FOP, and I am the elected spokesperson of our 318,000 rank-and-file police officers. We are the largest law enforcement labor organization in the United States. I am here this morning to advise you of our support for H.R. 4391, which would repeal the WEP and replace it with a more equitable individualized calculation of Social Security benefits.

The FOP has been at the forefront of an important effort by public employees to repeal both the WEP and the GPO. In May, I appeared before this Subcommittee to testify in favor of H.R. 594, which would repeal both of these inequitable provisions. This morning I would like to confine my remarks to the WEP and its effect on retired law enforcement officers, and to demonstrate the importance of this new act and why it is needed and how it will help our law enforcement officers.

Under the current WEP formula, law enforcement officers who serve communities which are not included in the Social Security system may lose up to 60 percent of their Social Security benefit to which they are entitled by virtue of secondary or post retirement employment which required them to pay into the Social Security system. While this provision affects all public employees who are

outside the Social Security system, we have maintained that it has a disparate impact on law enforcement officers for several reasons.

One, law enforcement officers retire earlier than employees in many other professions owing to the physical demands of the job. Thus, after their law enforcement service, many law enforcement officers are likely to begin second careers and hold jobs that do pay into the Social Security system, and even more officers are likely to moonlight, that is, hold second or even third jobs, throughout their entire careers in order to augment their income. This creates an unjust situation that too many of our members find themselves in. They are entitled to a State or local retirement benefit because they worked 20 or more years keeping their streets and neighborhoods safe, and also worked at a job, or jobs, in which they paid Social Security, entitling them to that benefit as well.

However, because of the WEP, if their second career resulted in less than 20 years of substantial earnings, upon reaching the age they eligible to collect Social Security, they discover that they lose 60 percent of the benefit for which they were taxed. Actuarially speaking, I doubt many of our officers will even live long enough to break even, and that is to collect the money that they paid into the system, much less a windfall, Mr. Chairman. These men and women earned their State and local retirement benefits as public employees, and they paid Social Security taxes while employed in the private sector. There is no windfall. Bluntly put, the WEP has not eliminated a windfall for individuals who did not earn it, but it has resulted in a windfall for the Federal Government at the expense of public employees.

House Resolution 4391 is an excellent first step in correcting the inequity of the current law and represents a commendable compromise between those who justly believe that public employees are being treated unfairly and those who are concerned about the potential financial consequences of repealing the WEP. Under H.R. 4391, the WEP would be repealed and replaced with an individualized calculation of Social Security benefits based on an individual's entire work history. Social Security benefits would be calculated as if all the worker's earnings were subject to Social Security taxes, using the standard benefit formula. To ensure Social Security benefits are based on Social Security wages, the benefit would be multiplied by the percentage of earnings subject to the Social Security taxes.

The legislation will change the law to treat our Nation's public employees much more fairly, and the FOP is proud to offer this measure our support. Mr. Chairman, I want to thank you and the other Members of this distinguished Subcommittee for the chance to appear here today, and we thank you for your work on this very important action to our Members.

[The prepared statement of Mr. Canterbury follows:]

**Statement of Chuck Canterbury, National President, Grand Lodge  
Fraternal Order of Police**

Good morning, Mr. Chairman, Ranking Member Matsui, and distinguished Members of the House Subcommittee on Social Security. My name is Chuck Canterbury, National President of the Fraternal Order of Police. I am the elected spokesperson of more than 318,000 rank-and-file police officers—the largest law enforcement labor organization in the United States. I am here this morning advise you of our support

for H.R. 4391, the "Public Servant Retirement Protection Act," which would repeal the Windfall Elimination Provision (WEP) and replace it with a more equitable, individualized calculation of Social Security benefits.

The Fraternal Order of Police has been at the forefront of an important effort by public employees to repeal both the WEP and the Government Pension Offset (GPO). In May of last year, I appeared before this Subcommittee to testify in favor of one of the F.O.P.'s top legislative priorities, H.R. 594, the "Social Security Fairness Act," which would repeal both of these inequitable provisions in current law.

This morning I want to confine my remarks to the Windfall Elimination Provision and its effect on retired law enforcement officers to demonstrate the importance of the "Public Servant Retirement Protection Act"—why it is needed and how it will help law enforcement officers.

Under the current WEP formula, law enforcement officers who served communities which are not included in the Social Security system may lose up to sixty percent (60%) of the Social Security benefit to which they are entitled by virtue of secondary or post-retirement employment which required them to pay into the Social Security system. This sixty percent (60%) is a lot of money, especially when you consider that the officer and his family were likely counting on that benefit when they planned for retirement.

While this provision affects all public employees who are outside the Social Security system, the F.O.P. has always maintained that WEP has a disparate impact on law enforcement officers for several reasons. First of all, law enforcement officers retire earlier than employees in many other professions. Owing to the physical demands of the job, a law enforcement officer is likely to retire between the ages of 45 and 60. Secondly, after 20 or 25 years on the job, many law enforcement officers are likely to begin second careers and hold jobs that do pay into the Social Security system. Even more officers are likely to "moonlight," that is, hold second or even third jobs throughout their law enforcement career in order to augment their income. This creates an unjust situation that too many of our members find themselves in: they are entitled to a State or local retirement benefit because they worked 20 or more years keeping their streets and neighborhoods safe, and also worked at a job or jobs in which they paid into Social Security, entitling them to that benefit as well. However, because of the WEP, if their second career resulted in less than twenty (20) years of substantial earnings, upon reaching the age they are eligible to collect Social Security, they will discover that they lose sixty percent (60%) of the benefit for which they were taxed! Actuarially speaking, I doubt many officers will live long enough to "break even"—that is collect the money they paid into the system, let alone receive any "windfall." These men and women earned their State or local retirement benefit as public employees and they paid Social Security taxes while employed in the private sector. How is this a windfall?

I think it is clear that Congress did not intend to reduce the benefits of hard-working Americans who chose to serve their States and communities as public employees and then went on to have second careers or worked second jobs to make ends meet. After all, when Social Security was established in 1935, it intentionally excluded State and local employees. And though most public employees are now in the Social Security system, fifteen (15) States—Alaska, California, Colorado, Connecticut, Georgia (certain local governments), Illinois, Louisiana, Kentucky (certain local governments), Maine, Massachusetts, Missouri, Nevada, Ohio, Rhode Island, and Texas—which remain outside the Social Security system. It is these approximately seven (7) million public employees that need the help of Congress.

When the WEP was enacted in 1983, it was part of a large reform package designed to shore up the financing of the Social Security system. Its ostensible purpose was to remove a "windfall" for persons who spent some time in jobs not covered by Social Security (like public employees) and also worked other jobs where they paid Social Security taxes long enough to qualify for retirement benefits. Yet the actual effect of the provision has had a profoundly negative impact on low-paid public employees outside the Social Security system, like law enforcement officers.

To the Fraternal Order of Police, this is a matter of fairness. The WEP substantially reduces a benefit that employees had included and counted on when planning their retirement. The arbitrary formula in current law, when applied, does not eliminate "windfalls" because of its regressive nature—the reduction is only applied to the first bracket of the benefit formula and causes a relatively larger reduction in benefits to low-paid workers. It also overpenalizes lower paid workers with short careers or, like many retired law enforcement officers, those whose careers are split inside and outside the Social Security system.

The repeal of the Windfall Elimination Provision has elicited no organized support, because I believe that the overwhelming majority of Members of Congress agree with the position of the Fraternal Order of Police, which is that the current

law is unfair to public employees. Yet despite this agreement, the estimated costs for a full repeal of the WEP are considerable and I believe that this is the primary reason that such proposals garner a great deal of support, but little attention. Bluntly put, the WEP has not eliminated a windfall for individuals who did not earn it, it has resulted in a windfall for the Federal government at the expense of public employees.

This is why I believe that H.R. 4391, introduced by Representative Kevin P. Brady (R-TX), Howard L. Berman (D-CA), Howard P. "Buck" McKeon (R-CA), Sam Johnson (R-TX), Michael Michaud (D-ME), and you, Mr. Chairman, is so important. It is an excellent first step in correcting the inequity of current law and represents a commendable compromise between those who justly believe that public employees are being treated unfairly and those who are concerned about the potential fiscal consequences of repealing WEP.

The legislation we are discussing here today would repeal the Windfall Elimination Provision (WEP) and replace it with an individualized calculation of Social Security worker benefits based on an individual's entire work history. Under the legislation, Social Security benefits would be calculated as if all the worker's earnings were subject to Social Security taxes, using the standard benefit formula. To ensure Social Security benefits are based only on Social Security wages, the benefit would be multiplied by the percent of earnings subject to Social Security taxes. Current retirees and workers who have non-Social Security wages in or before the year following enactment will receive the higher of either their benefit under current law or their benefit calculated under this bill.

The "Public Servant Retirement Protection Act" will change Social Security law to treat our nation's public employees much more fairly and the Fraternal Order of Police is proud to offer the measure its support.

Mr. Chairman, I want to thank you and the other Members of this distinguished Subcommittee for the chance to appear before you today. It is my hope that you and the Subcommittee will mark-up and pass H.R. 4391 in the near future. I will now taken any questions you may have.

Chairman SHAW. Thank you, Mr. Canterbury. Mr. Avak?

**STATEMENT OF GEORGE AVAK, PRESIDENT-ELECT, CALIFORNIA RETIRED TEACHERS ASSOCIATION, SACRAMENTO, CALIFORNIA**

Mr. AVAK. Good morning. Mr. Chairman and Members of the Subcommittee on Social Security, my name is George Avak and I am President-Elect of the CRTA. We have more than 52,000 members and represent the interests of 170,000 retirees who receive a pension from the California State TRS (CalSTRS). Thank you for inviting me to testify here today regarding H.R. 4391.

The CalSTRS is not integrated with the Social Security system, so most of our members are subject to the WEP and the GPO. While we continue to support repeal of both of these penalties, as encompassed in H.R. 594 and S. 349, we welcome H.R. 4391 as the first step toward fair and equal treatment of all people, regardless of their careers, by the Social Security system.

While California's public schoolteachers did not pay into Social Security during their teaching careers, nor were they given the opportunity to do so if they so chose, many did pay into Social Security doing summer jobs or prior employment. The reality was that a 9 month teaching job could not support a family for 12 months, so teachers worked in the summer. By doing so, teachers not only met the immediate needs of their family, but they thought they were also helping to meet their needs in their retirement. They recognized that they could not have a secure retirement by relying on just their teacher's pension. Not only was their pay below average compared to people with comparable educational backgrounds and

training, but the pension based on that working salary was not adequate to maintain a decent standard of living in retirement. As recently as 1998, an independent study conducted for CalSTRS concluded that the pension benefit provided by the system was not generally accepted by standards of income replacement in retirement.

I would also note that teachers paid for their pensions with an 8 percent payroll deduction. In the private sector, at companies that provide pensions, the common practice is for the employee to pay his share of the Social Security tax and the employer provides a pension at no additional cost to the employee. For example, a teacher who retired in 1987 today receives a CalSTRS pension of less than \$2,000 a month. Women retiring that year, and most teachers are women, receive an average of just \$1,688 a month. These pensions alone can hardly secure a retirement in a high-cost State such as California. That is why so many teachers worked in summer jobs where they could pay into Social Security in the belief that they would receive supplemental income in retirement. We estimate that about 40,000 California teachers are affected by the WEP. They lose an average of \$300 per month due to WEP. That may not sound like much money, but it is nearly 18 percent of the average retired female teacher's income.

The maximum Social Security benefit payable in 2004 is \$2,111 a month. The average payment is \$922. Our members typically qualify for a little more than half of the average payment based on their Social Security covered earnings before the application of WEP. That level of benefit is commensurate with the level of employment in Social Security jobs. To have what is already a modest benefit further reduced because one chose a career in public service such as education is not a message we should be sending. No other Social Security beneficiary is subjected to any type of means testing based on non Social Security income or financial resources, and we do not believe it is fair to impose such a test on public servants.

California and many other states are facing looming shortages of qualified teachers. One important source of new teachers will be those who decide on teaching as a second career. While they may be willing to make financial sacrifices in order to teach, they may be unable to make similar sacrifices in retirement.

There is another issue that must be addressed when identifying the necessary revenues to partially restore benefits lost to the WEP, as proposed in H.R. 4391. The fact is that 20 years after its imposition, the WEP and the GPO are a mystery to most people affected by them. The SSA sends out annual estimates of benefits that are misleading to those affected and has made no concerted effort to inform people about those penalties. The CalSTRS make only a limited mention of the Social Security penalties in the information it provides to its members. Many of our CalSTRS first learn about WEP and GPO when they apply for their benefits—much too late to make alternative financial plans to ensure a secure retirement.

Many times Social Security mistakenly provides a full benefit to retired teachers even though they are subject to those penalties. When Social Security learns of their error, they routinely send out letters to recipients demanding full repayment of the overpaid

amount within 30 days. We have members who have been paid full benefits for years, unaware that they are subject to these penalties. When the mistake is caught, they not only find they are losing a portion of their monthly income, but also have a significant and unexpected debt to pay. For some, the amount owed has ranged from \$4,000 to \$43,000. We would urge you to hold harmless such people who have been overpaid due to governmental error absent any evidence of fraud on the part of the recipient. Our members worked hard all their lives. They played by the rules and always expected to carry their own weight. What they didn't know was that the rules were changed, and now they are bearing the unfortunate brunt of that change.

We applaud Congress for finally recognizing that the impacts of WEP are not what were originally intended. House Resolution 4391 makes an important first step in rectifying those unforeseen consequences, and it will provide a measure of needed relief. I would like to thank all the Members of this Committee, and thank you for the time you have given me.

[The prepared statement of Mr. Avak follows:]

**Statement of George Avak, President-Elect, California Retired Teachers Association, Sacramento, California**

Mister Chairman and members of the Subcommittee on Social Security, my name is George Avak, and I am president-elect of the California Retired Teachers Association. We have 52,000 members and represent the interests of 170,000 retirees who receive a pension from the California State Teachers Retirement System (CalSTRS). I want to thank you for inviting me to testify here today regarding HR 4391.

CalSTRS is not integrated with the Social Security system so most of our members are subject to the Windfall Elimination Provision and the Government Pension Offset.

While we continue to support repeal of both of these penalties, as encompassed in HR 594 and S 349, we welcome HR 4391 as the first step towards fair and equal treatment of all people, regardless of their careers, by the Social Security system.

While California's public school teachers did not pay into Social Security during their teaching careers—nor were they given the opportunity to do so if they chose—many did pay into Social Security during summer jobs or prior employment. The reality was that a nine-month teaching job could not support a family for 12 months, so teachers worked in the summer.

By doing so, teachers not only met the immediate needs of their family but they thought they were also helping to meet their needs in retirement. They recognized that they could not have a secure retirement by relying on just their teacher's pension. Not only was their pay below average compared to people with comparable educational backgrounds and training, but the pension based on that working salary was not adequate to maintain a decent standard of living in retirement.

As recently as 1998, an independent study conducted for CalSTRS concluded that the pension benefit provided by the system did not meet generally accepted standards of income replacement in retirement.

I would also note that teachers paid for those pensions with an eight-percent payroll deduction. In the private sector, at companies that provide pensions, the common practice is for the employee to pay his share of the Social Security tax and the employer provides a pension at no additional cost to the employee.

For example, a teacher who retired in 1987, today receives a CalSTRS pension of less than \$2,000 a month. Women retiring that year—and most teachers are women—receive on average just \$1,688 a month. These pensions alone can hardly sustain a secure retirement in a high-cost state such as California. That is why so many teachers worked in summer jobs where they could pay into Social Security in the belief they would receive supplemental income in retirement.

We estimate that about 40,000 California teachers are affected by the WEP. They lose an average of \$300 per month due to the WEP. That may not sound like much money, but it's nearly 18 percent of the average retired female teacher's income.

The maximum Social Security benefit payable in 2004 is \$2,111. The average payment is \$922. Our members typically qualify for a little more than half of the aver-

age payment based on their Social Security-covered earnings before the application of the WEP. That level of benefit is commensurate with the level of employment in Social Security jobs.

To have what is already a modest benefit further reduced because one chose a career in public service such as education is not a message we should be sending. No other Social Security beneficiary is subjected to any type of means testing based on non-Social Security income or financial resources, and we do not believe it is fair to impose such a test on public servants.

California and many other states are facing looming shortages of qualified teachers. One important source of new teachers will be those who decide on teaching as a second career. While they may be willing to make financial sacrifices in order to teach, they may be unable to make similar sacrifices in retirement.

The penalties imposed on their earned Social Security benefits may make teaching a poor choice and could hamper efforts to recruit competent professionals in the coming years.

There is another issue that must be addressed when identifying the necessary revenues to partially restore benefits lost to the WEP, as proposed in HR 4391. The fact is that 20 years after their imposition, the WEP and the GPO are a mystery to most of the people affected by them. The Social Security Administration sends out annual estimates of benefits that are misleading to those affected, and has made no concerted effort to inform people about these penalties. CalSTRS makes only limited mention of the Social Security penalties in the information it provides to its members.

Many of our members first learn about the WEP and GPO when they go to apply for their benefits—much too late to make alternative financial plans to ensure a secure retirement.

Many times Social Security provides a full benefit to retired teachers even though they are subject to these penalties. When they learn of their error, they routinely send out letters to recipients demanding full repayment of the overpaid amount within 30 days. We have members who have been paid full benefits for years, unaware that they are subject to these penalties. When the mistake is caught, they not only find out they are losing a portion of their monthly income but also have a significant and unexpected debt to repay.

For some, the amount owed has ranged from \$4,000 up to \$43,000. We would urge you to hold harmless such people who have been overpaid due to governmental error absent any evidence of fraud on the part of the recipient.

Our members worked hard all of their lives. They played by the rules and always expected to carry their own weight. But what they didn't know was that the rules were changed and now they are bearing the unfortunate brunt of that change.

We applaud the Congress for finally recognizing that the impacts of the WEP are not what were originally intended.

HR 4391 makes an important first step in rectifying those unforeseen consequences and it will provide a measure of needed relief to our members impacted by the WEP. Thank you.

Chairman SHAW. Thank you, Mr. Avak. Just very briefly, the problem of a notice going out showing the incorrect amount is something that has come to the attention of this Committee, and we are working with the SSA hopefully to correct that, or at least have some type of a warning on it telling people receiving a government pension other than Social Security, that that amount might vary. It is unfair to people who are going into retirement and trying to figure out exactly what their budgets are going to be. Mr. Johnson?

Mr. JOHNSON. Thank you, Mr. Chairman. Mr. Iglehart, thank you for being here. It is a lot cooler here than in San Antonio right now, isn't it?

Mr. IGLEHART. A little bit.

Mr. JOHNSON. I notice that you still want some changes to the GPO. I would love to ask you a question. The GPO only replicates the dual entitlement rule that all other American spouses live with. Everyone is allowed to collect the greater of either retirement bene-

fits or spousal benefits, but not both. Why do you believe that those Texas teachers who don't participate in Social Security should get more benefits than those in the 45 Texas school districts that do pay taxes into Social Security?

Mr. IGLEHART. Well, we don't view it as these individuals necessarily receiving more. We are just trying to establish some type of equity, because these people, even though they may not have paid into the system, their spouses did. As a result of that, we feel that they are entitled to some of those benefits.

Mr. JOHNSON. Well, they do get the benefits. They get the higher of the two, whichever is greater. That is true for me and everybody else in this audience. What is different about a Texas teacher as compared to a policeman or a fireman or somebody else?

Mr. IGLEHART. Well, we are not saying that there is any difference between them. That is not what we are saying.

Mr. JOHNSON. Okay, you don't want to answer the question, I take it. That is okay. Mr. Avak, you indicated that some of your teachers get more than they should after they retire and then have to pay it back. I understand that situation, but does your organization try to inform the teachers, or do you just leave it to the Social Security system to do that?

Mr. AVAK. Well, we don't have all of the retired teachers as members of our association. There are 170,000 in the State of California. We feel that the obligation of informing them should be with Social Security. We are not an agent—

Mr. JOHNSON. Even though they don't work under Social Security?

Mr. AVAK. Well, if they are going to have the penalties imposed upon them because of having paid in Social Security prior to their employment as teachers, or subsequent to having been employed as teachers, then the obligation is with Social Security to let them know of the consequences of this particular process.

Mr. JOHNSON. You don't feel any obligation.

Mr. AVAK. We do the best we can to inform as many of our retired teachers as possible. We have a limited budget and it costs a lot of money to send out letters to all the people in our association and those who are not members.

Mr. JOHNSON. I bet you send out letters all the time. Do you in Texas, do you all inform them of the differences in the systems?

Mr. IGLEHART. I am sorry, I was not listening to the question.

Mr. JOHNSON. Do you keep them informed, your members, of the differences in the Social Security system and what they can expect when they retire?

Mr. IGLEHART. We try to. Of course, on an individual basis, it is difficult to tell members exactly what they are going to get. We try to keep them informed about the differences between the two and what they may be eligible for and not eligible for.

Mr. JOHNSON. Thank you. Mr. Hickman, do you all as well?

Mr. HICKMAN. Yes. In Nevada we have made very sure, because we have a close relationship with the Public Employee Retirement System, and we were actually going to put a bill in for this coming session in Nevada to require such notification. Our Public Employee Retirement System has already agreed to that. We totally support the effort that everyone who now becomes a

member of the Public Employee Retirement System is notified that, by doing so, they may be subject to the WEP/GPO problems that may come to them if they have some Social Security.

Mr. JOHNSON. Thank you.

Mr. HICKMAN. We are all very proud of that.

Mr. JOHNSON. Thank you. Yield back.

Chairman SHAW. I was reminded by staff that under H.R. 743, "The Social Security Protection Act" (P.L. 108-203) passed by this Committee and recently enacted into law that the SSA is going to have to come up with some way of handling that particular problem of notification. Mr. Becerra?

Mr. BECERRA. Thank you, Mr. Chairman, and thank you, gentlemen, for your testimony and the work that you and your associations have done to try to bring this to a final vote and, hopefully, passage. Let me ask a question. This is a question that I ask simply to see if you all can continue to give us some guidance on how to get this done.

There will be a cost associated with this. Some may portray this as not so much a cost, it is finally paying up what was due a lot of folks who didn't get their share of Social Security retirement benefits. One way or the other, the Federal Government would have to come up with money—in the case of this legislation, if the cost projections are accurate, about \$7 billion over the next 10 years. If we were to eliminate WEP, that would be somewhere around \$30 billion over the next 10 years. Let's talk simply about this legislation, about \$7 billion.

We are running a fiscal budget deficit of some \$470 billion this year alone. We have over a \$7 trillion debt right now in this country. Everything that we are being told is that we are going to continue to see historically high budget deficits for the Federal Government. Seven billion compared to a \$7 trillion national debt isn't that much. Seven billion dollars compared to a 1-year annual deficit for this year of \$470-plus billion is not that much, but \$7 billion is still \$7 billion more than what the Federal Government has available to spend.

Give me your sense of how you would suggest to us that we move forward on this. I can give you some of my ideas on that, but without influencing what you might have to say, give me a sense of how you would suggest that we try to address all the different needs that the government has, whether it is national security, fighting terrorism, providing education funding, providing health care, Social Security, Medicare, all the rest, and then also doing this which I think most of us would agree is essential to do. Open question. Anyone.

Mr. IGLEHART. I am sure all of us would agree here that that is a very difficult task. With the help of Mr. Gerry and some other keen advisors, I think it is something that can be accomplished. Exactly how, we would have to look at the details of all of this, of course, which we don't have before us. Be we are pretty certain it can be done.

Mr. BECERRA. Well, let me propose—let me ask a question, you can give me a thumbs up or thumbs down. Should we do more aggressive enforcement of current GPO/WEP provisions, to collect money there to then have money to pay out to do a revised or re-

formed WEP? In other words, there are lot of folks out there who have received these letters from Social Security saying we didn't realize this but we are paying you more than, under the current law, you should be receiving because you did government non-Social Security work and also you have earnings that are Social Security-related government work. Should we do more active enforcement of those folks who received those letters but haven't returned the money Social Security says they are owed to try to help pay for this reform of WEP? Any thumb up? Probably thumb down?

Let me ask this. I am going to assume that if you don't give me a thumb up, that means it is a thumbs down. What about this? We passed some tax cuts in this country in the last few years, 2001 and 2003, totalling over a trillion dollars in reduced Federal revenues as a result of those tax cuts. Most of the money went to folks far beyond the means of those who are retired under Social Security and trying to get some of this money back. Would you suggest that perhaps we reduce the size of the tax cuts for perhaps the one tenth of 1 percent wealthiest Americans in this country to find some of the money to help pay for this? Thumbs up? Thumbs down? See, one thumb up. Okay.

Mr. BRADY. Mr. Chairman, is Mr. Becerra leading the witnesses at all in this?

[Laughter.]

Mr. BECERRA. It is a tough one, and it is going to be a tough one for us to resolve, because I think everyone has the desire to try to make this work. I hope that what we will be able to do is come up with the courage to find how we pay for this, because we need to. We have a lot of obligations, but we also have obligations for people who have worked very hard. I just wanted to see if you all might have some recommendations or suggestions for us. Mr. Chairman, I know we don't have the light, but I suspect my time is up, so I yield back and thank you for the time.

Chairman SHAW. You yield back 9 seconds. Mr. Hulshof?

Mr. HULSHOF. Thank you, Mr. Chairman.

Chairman SHAW. By the way, that was a very interesting line of questioning.

Mr. HULSHOF. It was, and even though it is an accounting device, there still is the firewall between the Social Security taxes that are paid into the system and the income tax structure. I want to commend the gentleman from California and want to maybe step back. I appreciate the testimony offered, because we have had a good, lively discussion—I heard somebody say, actually, "sparring" this morning—and I wanted to get back more to some general themes. I have heard throughout about how your constituencies, in fact, yourself, Mr. Hickman, your personal story about working hard, people playing by the rules, a strong work ethic. We all lament the salary structure that you have. Of course, that is not within the purview of Congress necessarily. Mr. Avak, you even mentioned the high cost of living in California—talk to that guy down there, Mr. Becerra.

As we understand it, the purpose of the hearing is, of course, that we recognize that last year there were 700,000 retirees and disabled Americans, about 2 percent of the workforce, that earned the benefit both from Social Security and from a pension plan that

substitutes for Social Security. Again, for those folks—Mr. Chairman, you reminded us that there is an audience broader than just these walls, that back in 1983 Congress enacted this arbitrary line of the WEP, and the intent was—I haven't gone back to look at the debate specifically, but generally the intent was this formula that employees who earned a Social Security pension along with a pension from a substitute, like a teacher, like a police officer or Mr. Canterbury, that they would not receive a more generous Social Security benefit than some worker with equal earnings who had paid into Social Security their entire lifetimes. That was the intent. Everybody recognizes, though, this was an arbitrary line that was drawn.

The thing, though, the final point I would like to make, and really not a question but I think just, again, to kind of step back, is that Mr. Brady's bill, this bill that we are here and you have testified about, does in fact repeal the WEP. His bill repeals the WEP. Social Security would no longer be figured by an arbitrary formula but would, in fact, be based on each worker's actual work history. Again, that attempt is to treat all workers fairly. Again, I want to commend you not only for your lifetime of experience in the groups that you represent, but your willingness to work with us and to try to address this in the most fair and equitable manner possible. Thank you, Mr. Chairman.

Chairman SHAW. Thank you, Mr. Hulshof. Mr. Brady?

Mr. BRADY. Thank you, Mr. Chairman. I want to join with Mr. Becerra, Mr. Johnson, and Mr. Hulshof in thanking the witnesses because I think it has been real enlightening. A couple of thoughts. One, I think all of us agree that this formula from 21 years ago just doesn't fit today. When you listen to a teacher who worked a second job in a casino, teachers trying to recruit educators to San Antonio, police officers whose colleagues aren't going to live to a ripe old age, and a teacher in California whose elderly colleagues have trouble living in a high-cost State. The real problems with the one size fits all approach. Under this bill, the point you made is this WEP formula disappears. The same formula that everyone else on Social Security receives is applied to your workers, which is—I can't think of anything fairer than equal treatment. If you will remove that—if you can pull that down a second, thank you, Mr. Hulshof.

What we are trying to do under this bill is everyone is so different an individual it is hard to compare dollars, but you can compare how much their wages are replaced by Social Security. That is what we focused on. Are people getting back an equal percentage of what they put in, in other words. Under this bill, a Social Security worker, a little over 40 percent replacement wage. Under the current law, it dips, just as each one of you said. Each one of your fellow members and fellow teachers and police officers are penalized. Under H.R. 4391, the wage replacement rate is almost identical for workers, so they are getting back in Social Security almost identical percentage of what they paid in. That is the goal of what we are trying to do today.

The point I think I want to make, the question I want to ask of each of those who testified, you are individuals, as your stories tell today. There have been some who are suggesting that the cost of

going back and figuring out your accurate and complete work records is too high, is too much for the effort. While I think the \$190 million estimate, which really does work out to about a quarter of a million dollars a worker, seems to me just insane in amount. I think we can do it for a fraction of that. The point that still remains is, for your members to be eligible for equal treatment based on, really, what their life work history is, do you think it is worth the effort to recalculate the benefits based on an individual rather than on some guess? I will start with Terry, Mr. Hickman.

Mr. HICKMAN. Thank you, Congressman Brady. I would ask a question in return: what price is justice? I believe the individual does have a right to have their Social Security benefit based upon what they have done. You are absolutely correct, one-size-fits-all is not correct. I know the thousands of retired teachers and educators and State employees in the State of Nevada are asking for fairness, and this is the way for it to be based upon the individual. We totally support that. There is no price for justice, because this bill will help to make it right based upon the individual's work record, and we think that is what should be done.

Mr. BRADY. Thank you, sir. Howdy, Randall.

Mr. IGLEHART. Thank you, Representative Brady. We certainly appreciate your and the Committee's efforts in this process. We think it does take a giant step toward establishing some type of equity in this system. Our members will greatly appreciate this effort, and we would like to see it passed during the 108th Congress.

Mr. BRADY. You bet. Thank you. Sir.

Mr. CANTERBURY. Absolutely, it has been an equity issue from day one. I think the misnomer has always been that it is getting a benefit that you are not entitled to. It is a benefit that you paid into. If I work a parallel career while I police the streets of my city and then bus tables at Shoney's the rest of the time, I am getting my Social Security benefit on my bussing tables. It was an inequity from the start. I can promise you that my members will volunteer enough man-hours individually to track down their non-covered wages.

[Laughter.]

If I can promise from the thousands of e-mails that I receive, they already know those figures. If they have to go to their private pensions, I am sure that the private pension calculated their benefit based on their non-covered Social Security. I believe those figures are very easily retrievable.

Mr. BRADY. We hear exactly the same thing from our teachers in Texas. We can recalculate.

Mr. CANTERBURY. We can find them.

Mr. BRADY. Yes, sir. Thank you.

Mr. CANTERBURY. Thank you.

Mr. AVAK. We have a lot of retired math teachers.

[Laughter.]

We would be happy to resume employment. I know my wife, she is very, very mathematical. I don't want to say "calculating," but she is terrific in math. She looks forward to looking at the bill when we go to the grocery store and calculating to be sure that there were no errors in what the grocery store told us we were to pay.

Mr. BECERRA. Mr. Chairman, we had better hire his wife.

Mr. AVAK. Our association, though, is supporting this bill as a major step forward. We appreciate the efforts of this Committee, and especially you, in bringing it forward. I think that democracy is an evolution, and things take steps sometimes to get accomplished. If we didn't have these small or whatever steps they are, we wouldn't see the fruition of a lot of tremendous efforts that take a lot of time to accomplish. Thank you.

Mr. BRADY. Well, thank you. All your testimony has been very enlightening. We appreciate it.

Chairman SHAW. I think this is an unusual bill; it is an unusual moment. I particularly like the way Mr. Canterbury summed it up for the FOP, and that it is a question of fairness, getting what you paid into. That is what this bill asks, and that is what we hope it can do. I think also it is an interesting moment when you see the NEA, the Texas teachers, FOP, retired California teachers, and conservatives on this Committee, such as Mr. Johnson, all agreeing together. Something is wrong.

[Laughter.]

Or something is very right. I think all of us fully understand this bill. I join you in my hope that this can be done in the 108th Congress. If not, I would guess that in the 109th Congress there will be probably an overhaul of Social Security. I, for one will work hard to try to get it done this year, but if not, we will work to get it put into the bill next year. In fact, I think it is in a bill. We are trying to move this ball ahead. One of the most unfair things that you think about in Social Security is that young workers going into the workforce, such as my grandson back here—who is working for nothing in my office. I might say—I want to be sure that Wyatt is going to be able to be sure that he is going to get back a good retirement for the money that he is going to pay into Social Security.

Congress has got to do something about this, because we are in danger. We talk about the amount of deficit that we have today. We haven't seen anything yet, unless Congress gets busy and reforms Social Security. I will do my best to be sure that, if we haven't passed it beforehand, that it will certainly be part of the total Social Security reform. I want to join the other Members of this panel in thanking all of you for coming and testifying. You obviously have done your homework, and I share your views. Thank you.

[Whereupon, at 12:21 p.m., the hearing was adjourned.]

[Questions submitted from Chairman Shaw to Mr. Gerry, Mr. Hickman, Mr. Iglehart, Mr. Canterbury, and Mr. Avak, and their responses follow:]

**Questions from Chairman E. Clay Shaw, Jr. to Mr. Martin H. Gerry**

**Question:** Please comment on the enclosed CRS analysis of H.R. 4391. Do you agree with the findings of this report? Please describe generally the workers who would benefit from H.R. 4391.

Answer: This CRS report analyzes the effect of the proposed benefit formula change on various categories of future hypothetical workers with scaled earnings who retire at age 67 in 2051. The report determined that minimum-wage workers and low-wage workers would receive the greatest percentage increase in Social Security benefits under H.R. 4391, relative to current-law, regardless of the number of years of covered earnings. Further, the level of benefit increases under H.R. 4391 for individuals with somewhat higher earnings would be dependent, in part, on the

proportion of the individual's lifetime earnings that are attributable to covered employment. While H.R. 4391 would generally provide higher benefits for many beneficiaries, among those who would not gain would be: 1) average earners with more than 27 years of covered earnings, 2) high earners with more than 23 years of covered earnings, and 3) all those with career maximum earnings under Social Security.

While we have not replicated their analyses, the methodology CRS uses in this report appears reasonable, and their conclusions are generally consistent with SSA's analysis of the bill's effects. We have generally found that:

- Lower and mid-level career earners (considering both covered and non-covered earnings) are more likely to receive a benefit increase under the proposal, and the amount of the increase would tend to be higher for these individuals than for other groups.
- Workers who are more likely to receive lower benefits under the new calculation formula (unless protected by the present-law guarantee provision) include workers who—
  - currently benefit from the present-law rule that phases out or eliminates the WEP reduction for individuals who have 21 or more years of substantial covered earnings under Social Security;
  - have high career earnings with substantial combined earnings from both covered and non-covered employment.

Last year SSA staff evaluated the impact of this proposal on simulated WEP beneficiaries attaining age 62 in 1999. This analysis assumed that, unlike H.R. 4391, there was no present-law guarantee and that pre-1978 non-covered earnings were not considered. This analysis found that:

- 88 percent of those affected would receive higher benefits under the new calculation; and
- the group with the largest average increase in benefits was the lowest earning group.

A similar analysis (using the same assumptions) was done for simulated workers reaching age 62 in 2018. For this group, 61 percent of those affected would receive higher benefits. The substantially greater percentage with improved benefits in 1999 is due to the fact that the proposed proportional WEP would provide a greater increase if a portion of non-covered earnings is ignored, as occurs in the analysis for those eligible in 1999 by leaving out pre-1978 non-covered earnings.

**Question: Please discuss whether the current law WEP (WEP) fairly adjusts benefits for all workers to ensure workers with part of their careers in jobs not subject to Social Security taxes receive equal replacement of their Social Security-covered earnings as workers in covered employment their entire career. Also, please discuss the history of this provision and how the current formula was determined.**

Answer: Congress established the WEP to prevent workers with pensions from work not covered by Social Security from receiving the unintended advantage of the full weighting in the regular benefit formula that is meant for long-term, low-paid workers. The WEP eliminates this potential windfall by providing for a different, less weighted benefit formula to compute benefits for such persons.

The WEP also includes two special provisions that limit the potential benefit reduction for many workers. One provision guarantees that the WEP reduction can be no more than one-half of the amount of the pension from non-covered employment. The other provision phases out the reduction for workers with more than 20 years of substantial earnings under Social Security and fully eliminates the WEP reduction for workers with 30 or more years of substantial earnings. These two provisions were included to provide some protection for workers with low non-covered pensions or workers who had substantial careers in Social Security covered employment.

With respect to the legislative history of the WEP, the 1982 National Commission on Social Security Reform, chaired by Alan Greenspan, recommended that the computation of benefits for workers who receive pensions from non-covered work should be modified. (No specific benefit formula was recommended.) The decisions to reduce the first factor of the Social Security benefit formula from 90 percent to 40 percent, to set the guarantee at one-half of the pension, and to phase out the WEP reduction based on the number of individual's years of substantial covered earnings, were the result of compromises between the House and Senate versions of the 1983 Social Security amendments. (The Senate version would have lowered the first factor from 90 percent to 32 percent, set the guarantee at one-third of the pension amount, and

provided a phase-out of the reduction for workers with substantial covered earnings. The House version would have lowered the first factor from 90 percent to 61 percent, set the guarantee at one-half of the amount of the pension, and did not include a phase-out provision.)

Originally, the provision that phases out the benefit reduction for workers who had substantial earnings under Social Security applied only if the worker had 26 or more years of substantial earnings. Legislation enacted in 1988 (P.L. 100-647) extended the phase out so that it first begins to apply to workers who have 21 or more years of substantial earnings under Social Security.

**Question:** You said the Social Security Administration (SSA) does not have complete information on earnings not subject to Social Security taxes prior to 1978 and has only incomplete information for about a decade after that. Why is that the case? What options does the SSA have for obtaining wage data that pre-dates 1978? Are you able to partner with the Internal Revenue Service, the Office of Personnel Management, State employers or State pension systems to obtain information not currently available in SSA archives? Are these agencies likely to have these records? Or would the SSA expect to rely primarily on beneficiaries' own records of their past wages? What procedures and evidence does the SSA normally utilize in verifying missing earnings information (whether or not an individual is affected by the WEP)?

Answer: Prior to tax year 1978, when Annual Wage Reporting began, covered (FICA) wage data was collected by the IRS and forwarded to SSA. Non-covered earnings for these years were also collected by IRS but were not forwarded to SSA. While SSA did begin to receive non-covered earnings information on Forms W-2 beginning in 1978, many State & local government entities did not start submitting W-2 data to SSA until 1980 or 1981. State and local entities began filing W-2s with all information including Social Security covered wages (previously reported separately to SSA) with W-2s for tax year 1982.

Even after 1981, some earnings records continue to be incomplete—primarily for years prior to 1990. An analysis of the records of individuals with non-covered earnings indicated that there are many individuals who have gaps in their non-covered earnings patterns. It appears likely that, in many cases, those individuals remained in non-covered employment during those “gaps.” An evaluation of the largest 155 non-covered Federal and State/local government employers showed that for about 30 percent of these employers there was either a complete gap for 1 year or more, or for 1 year or more there were substantially lower non-covered earnings posted relative to a surrounding year.

- Of the 47 employers that seemed to have a problem, 32 had a problem in one of the years in the period 1984–1986.
- For only 4 of the 47 employers, the “gap year” was for 1990 or later.

It appears that the missing non-covered earnings are due to reporting errors by the employer, rather than an error in posting the earnings to the worker's record.

If pre-1978 non-covered earnings were to be used in the benefit computation (as under H.R. 4391), the potential sources for obtaining pre-1978 non-covered earnings are the individual, the individual's employer, or his/her pension system. Following is a discussion of the availability of non-covered earnings from various sources.

#### *Individuals*

The IRS requires that an individual taxpayer keep his/her tax returns for 3 years from the date the return was due or filed, or two years from the date the tax was paid, whichever is later. Presumably, most individuals would not have wage information going back 27 or more years. Individuals could contact their prior employer(s) to see if they had this earnings information but IRS rules require that employers only keep employment records for 4 years after the tax is due or paid, whichever is later.

Further, under the language in H.R. 4391, if the individual *did* have the earnings information, it may not be to his/her advantage to provide it to SSA because inclusion of these additional pre-1978 non-covered earnings would serve to lower the benefit payable under the H.R. 4391 computation. Likewise, if an employer/pension payer had the worker's yearly earnings amounts (or could derive them from other records), there is no incentive for the employer/pension payer to expend the resources to research this information—especially if it could only decrease the former employee's Social Security benefit.

*Internal Revenue Service*

IRS has informed us that they would be unable to supplement information already in SSA's possession regarding non-covered earnings. IRS stores paper copies of Forms W-2s for only 7 years from the date of filing before they are destroyed by law. The information that IRS stores electronically (related to this issue) is the "wages, salaries, and tips" block on the 1040, line 7—not wage amounts off the Forms W-2. This excerpted information is only available for up to 10 years. Furthermore, the electronic transcript information for joint returns would combine the couples' wages (on line 7) and there would be no way to discern the earnings of each member of the couple, nor would there be a way to discern covered versus non-covered earnings.

*Office of Personnel Management (Federal Employees)*

The OPM maintains only paper records of federal employee's annual retirement deductions, which presumably could be used to derive an annual earnings amount. It would be a very labor intensive manual process to obtain this information for prior years—potentially, back to 1951 (as required by H.R. 4391). SSA would have to provide OPM with the name and SSN of the employee; OPM would have to go to the record center and pull the paper record to get the payroll deduction amount. SSA would then have to apply appropriate conversion factors for each year to get the amount of earnings. (There were a number of changes made to the payroll deduction amounts between 1951 and 1969.)

We were informed that individual federal agencies may have paper payroll records at the St. Louis records center; again, if available, obtaining this information would be a manual process and it is unlikely that records are maintained back to the fifties. Retirement records are automated but only record the total years of service and average salary amount for purposes of the "high 3" retirement annuity calculation.

*State and Local Governments*

There are approximately 22,000 State and local governmental employers in the U.S. The number of State and local government pension payers is not known and it is not clear how many of these organizations would have wage information earlier than 1978. However, based on a few of the larger non-covered State entities we have contacted, few have such information available and those that do would require either a labor intensive search and/or development of a special program that could derive the wages from the contributions paid. For example, one large State pension plan told us they have wage information on contributions from the mid-seventies; however, to obtain just the contributions of one employee for 1 year, they would have to look at 24 separate reels of microfilms (i.e., one microfilm for 1 pay period). In situations where wages could be derived from pension contributions, the amount of these wages would not match taxable wages because certain payments such as bonuses and overtime are not subject to pension contributions.

The SSA has long-established procedures and evidentiary requirements that are used to develop and document earnings that have not been recorded on a worker's earnings record. The first step in an investigation and resolution of an allegation of missing or incorrectly posted covered earnings is to establish the identity of the requester. Once SSA has established the individual's identity, the individual is requested to provide evidence of his employment, such as a Form W-2, employer statement, pay stubs, and so forth. There is a hierarchy of primary and secondary evidence which is requested in order to establish and post missing earnings. Primary evidence of earnings, such as the Form W-2 or employer statements verifying the fact and periods of employment as well as amount of earnings, is always requested first. If primary evidence is not available, then additional evidence is requested, such as union statements, pay slips, tax records, and so forth., in order to establish the missing earnings.

All questions, discrepancies, and so forth., are resolved by requesting additional evidence from the individual or employer before any action is taken by SSA to credit the earnings. SSA does not take any corrective action unless the evidence submitted or obtained clearly establishes the individual's identity, the employment and the amount of earnings.

**Question:** H.R. 4391 provides leeway for your agency to determine how to implement the new benefit computation. In your testimony, you described a scenario where the SSA would use only post-1977 earnings to calculate benefits under the new benefit formula in H.R. 4391. Please elaborate on other options for how the SSA might implement the bill. For each option, provide a discussion of the following: the effect on the SSA's ability to administer the provisions of H.R. 4391; incentives or disincentives for workers and employers to provide historical earnings information; equity or po-

**tential inequity in treatment of workers who cannot obtain proof of their non-covered earnings; and the estimated short and long-term cost to the program. What do you recommend as the best way to ensure those affected by the WEP receive fair replacement of their Social Security-covered earnings without creating an undue administrative burden on the SSA and State and local government employers?**

Answer: For purposes addressing the lack of readily available data on worker's pre-1978 non-covered earnings, there are potential options for computing Social Security benefits under H.R. 4391 (in addition to excluding all pre-1978 non-covered earnings). These options are:

Option 1

*If actual earnings are unavailable, assign to the worker the "average" salary in that jurisdiction for his or her specific position (e.g., teacher) for that year.*

- While actual pre-1978 pay records of individual workers may no longer be available, historic pay tables may exist that would allow SSA to determine an average salary.
- The SSA would have to verify the job position (teacher, janitor, administrator, bus driver, and so forth.) for each worker for each year. We would then need to know the average salary for each non-covered position.
- There would be a question of how specific should the "position" be—for example, an electrician trainee is not the same position as a master electrician—at least in terms of salary.
- The SSA would have to determine whether to use the average at the State level or at the level of the specific employing entity (i.e. individual school district, Local government, and so forth—).
- There is also a question as to what average amount would be used if the data needed to compute the average is not available.
- Because the greater the amount of non-covered earnings used in the computation, the lower the resulting benefit would be under H.R. 4391, people may complain that the average used by SSA is too high for them. For many affected workers, the pre-1978 non-covered may reflect their earliest years of employment and the "average" earnings amount could be too high compared to the amount of their actual earnings. Such workers for whom pre-1978 non-covered earnings are not available may believe that they are not being treated fairly compared to other workers who can obtain their pre-1978 earnings.
- However, if the "average" earnings amount used for many pre-1978 years were much higher than the worker's actual earnings, this could become an incentive for workers to provide SSA with proof of actual earnings. Conversely, there would be a disincentive to supply actual earnings if the "average" used for many of the pre-1978 years were much lower than the worker's actual earnings.

Option 2

*Determine the Average Indexed Yearly Earnings (AIYE) for all years of covered and non-covered earnings that are available (e.g., if there are 15 such years of earnings, then compute the AIYE for those 15 years) and assign that AIYE for all years of non-covered earnings that are not available.*

The years of earnings that are *not* available (often early in the person's career) may be lower than the other, later, years and thus the AIYE that is "deemed" for those earlier years may be too large—compared to the person's actual earnings. (This result would be disadvantageous to the person.)

If the AIYE is larger than the person's actual earnings, this would serve as an incentive for workers to provide proof of non-covered earnings. However, applying the AIYE in such cases may then be viewed as unfair to workers who simply are not able to provide such proof.

- This approach may also be inaccurate if the worker received a significant promotion (e.g. teacher to principal) or a demotion.
- This Option would be simpler to administer than Option 1. Unlike Option 1, the amount of earnings for missing years would always be determinable and would not require research into the pay levels for a myriad of different positions in that State or local jurisdiction. Further, the earnings used for missing years would not be arbitrary amounts based on other workers' average salaries; rather, they would be based on the worker's own personal earnings history.

Option 3

*SSA would use all available procedures to establish a worker's entire non-covered work history in order to compute the worker's Social security benefit. However, if all non-covered earnings cannot be established, present-law WEP will apply.*

- Such an “all-or-nothing” approach could be an incentive for workers to assist SSA in establishing proof of their non-covered earnings. Most workers would gain from the provisions of H.R. 4391. Under this Option, the only way they could take advantage of the new computation would be to have all of their non-covered earnings.
- For future cohorts, this provision may not be a significant problem as SSA has better records of non-covered earnings. However, it may be viewed as unfair to those workers who cannot give us this information, especially for workers on the rolls who have a significant proportion of their non-covered work prior to 1978.
- Maintaining present law WEP would prevent any worker from being disadvantaged. However, SSA may have to maintain present-law WEP forever since there may always be instances where SSA cannot establish amounts of non-covered earnings (e.g., foreign work for which the worker receives a pension.)

In estimating the program costs of H.R. 4391, SSA’s Office of the Chief Actuary assumed that no-pre-1978 non-covered earnings would be available for inclusion in the computation. Based on that assumption, program costs for H.R. 4391 are estimated to be \$3.5 billion over the first 5 years and \$7.1 billion over the first 10 years. The estimated long-range cost is 0.01 percent of taxable payroll.

The program costs for Options 1 and 2 would be less than the costs for the approach that would exclude all pre-1978 non-covered earnings because any additional pre-1978 non-covered earnings used in the benefit computation would decrease the Social Security benefit. SSA has not developed costs for Options 1 and 2 because there is significant data that is unavailable, but needed, to generate reliable cost estimates (such as the periods and extent of workers’ non-covered service before 1978). However, SSA is currently working on a cost estimate for Option 3.

With respect to question 4b, SSA does not believe that any of the options offer a better way than current law to ensure that those affected by the WEP receive a fair wage replacement of their Social Security-covered earnings, without creating an undue administrative burden on SSA and State and local government employers.

**Question: Beginning with which cohort of retirees do you believe the SSA would have substantially complete earnings records and would be able to administer the benefit computation in H.R. 4391 without having to develop additional proof of non-covered earnings?**

Answer: The first year for which SSA has a record of workers’ non-covered earnings is 1978. Therefore, the first cohort for which SSA would have reasonably complete earnings records, and would be able to administer the benefit computation in H.R. 4391 without having to develop additional proof of non-covered earnings in most cases, would be those persons who were age 22 in 1978 and who will attain age 62 in 2018. These individuals are currently about 48 years old. (Age 22 is often used in benefit examples as the age at which it can be expected that full-time workers will have begun their careers.)

However, as noted earlier, many State & local government entities did not start submitting W-2 data to SSA until 1980 or 1981. Because of this significant issue, the first cohort for which SSA would have *substantially complete* earnings records, and thus could avoid having to develop additional proof of non-covered earnings, would be those persons who were age 22 in 1982 and who will attain age 62 in 2022.

**Question: The “Social Security Protection Act of 2004” (P.L. 108-203) requires the SSA to include in the Social Security Statement sent to workers an explanation of the potential benefit reductions under the GPO (GPO) and WEP, and requires the SSA to develop a notice for employers to use in informing newly hired employees who are not subject to Social Security taxes of the effect of the GPO and WEP. Would you provide an update as to how implementation of this provision is progressing? What feedback are you receiving from stakeholders as the process moves forward?**

Answer: With respect to modifying the *Social Security Statement*, the Office of Communications (OCOMM) has been working with the Office of Disability and Income Support Programs to undertake the activities required to fulfill the requirements of the law. Because the SSPA was only signed into law on March 2, 2004, we are in the planning stages for this provision which is effective January 2007. Our goal is to provide the most meaningful WEP/GPO information to the largest number of workers, ensuring that all those potentially affected by these provisions receive the necessary information.

With respect to the notice to be given to newly hired employees, SSA has developed a draft notice that provides information concerning both the WEP and GPO provisions, as required by the legislation. SSA recently met with concerned advo-

cates to discuss the draft notice and to address their concerns. SSA is on track for timely implementation of this provision of P.L. 108–203.

**Question: In addition to worker education about the GPO and WEP required in P.L. 108–203, what other recent improvements to brochures, the SSA website and other public communications have been made to help make individuals aware of these provisions and how they may affect their benefits?**

Answer: We have taken many actions in the last year to help individuals affected by GPO and WEP understand how these provisions may affect their future benefits. For example, we have strengthened the language in our publications, *GPO and WEP*. These publications are available in print and electronically.

On our website, *Social Security Online*, we have improved our page, “Information for government Employees,” at <http://www.ssa.gov/gpo-wep/> by adding a GPO calculator, enhancing the existing WEP calculator and adding a chart on “How the WEP Can Affect Your Social Security Benefit.” This page provides ample information on GPO and WEP. It is valuable in financial planning, because it helps the public get realistic estimates of the benefits they may receive from Social Security after GPO or WEP is taken into account. We also have added several new entries to our “Frequently Asked Questions” page on our website that explain the GPO and WEP provisions and how they can affect Social Security benefits.

**Question: Under current law, workers are exempt from the WEP if they have 30 or more years of substantial earnings under Social Security. If a worker retiring this year paid Social Security taxes on approximately \$282,000 in wages, just meeting the minimum requirement over the past 30 years, he would be exempt from the WEP. However, if he paid Social Security taxes on the same amount of wages, but earned it over 20 years instead of 30 years, he would not be exempt. Or, if he earned just \$1.00 less than the minimum amount for “substantial” earnings in each of those years, he would not be exempt. While H.R. 4391 grandfathered current and past non-covered employees if they benefit from this exemption, do you think it is needed as a permanent part of the law under the new benefit computation in the bill in order to ensure workers with identical wage histories are treated equally? Similarly, do you believe the provision limiting the WEP reduction under current law to an amount equaling no more than one-half the government pension should be made a permanent part of the law under H.R. 4391 (rather than only a grandfather provision) in order to ensure workers with identical wage histories are treated equally under the program?**

Answer: The H.R. 4391 “hold harmless” provision allows any individual who has non-covered earnings prior to the year after enactment to be subject either to the new benefit formula or to the current-law WEP, whichever is more advantageous. These individuals would have the opportunity to benefit from current-law provisions which 1) phase out the WEP reduction if the worker has 21–29 years of “substantial” covered earnings and fully eliminate the WEP if the worker has at least 30 of such years, and 2) guarantee that the WEP reduction will not be more than one half of the non-covered pension amount. Approximately 7.6 percent of workers subject to the WEP have the effect of the WEP reduced due to the guarantee that the WEP reduction will not exceed one half of the non-covered pension amount; almost 19 percent have the effect of the WEP reduced because they have between 21 and 29 years of substantial covered earnings. No data are available on the number of beneficiaries who would have been subject to the WEP but were exempt because they have 30 or more years of substantial covered earnings.

Under H.R. 4391, individuals with non-covered earnings which first occur in the year following enactment or later would not benefit from the exemption based on 30 years of substantial covered earnings or the guarantee that the reduction will not exceed one half of the non-covered pension amount. Modifying H.R. 4391 to make these two provisions a permanent part of the law would provide additional protections for those whose non-covered employment begins in the future, reducing the possibility that they would be disadvantaged relative to current law. However, these changes to the bill would increase program costs. In addition, they would also increase administrative complexity because SSA would need to administer these additional provisions for all years into the future.

As pointed out in the question, it is true that equity questions can be raised about the operation of the WEP “phase-out” based on the number of years of substantial covered earnings. That is, the distribution of earnings over a worker’s lifetime, including whether the earnings in a given year are slightly more or less than the specified threshold, can result in wholly different treatment under this provision. These points could be used as arguments against retaining the current phase-out provision

for those whose non-covered employment first begins in the year following enactment.

**Question:** We heard testimony stating that about one-third of teachers pay into a government employee pension plan that substitutes for Social Security coverage, and the remaining two-thirds pay into Social Security. Would H.R. 4391 help ensure that both groups of teachers are treated equally in terms of how much of their Social Security-covered wages that Social Security benefits replace? If we repeal the WEP, would the two groups be treated equally?

Answer: As I stated before your Subcommittee at the July 20, 2004 hearing, the goal of H.R. 4391 is to better target the effect of the offset so that the amount of the resulting reduction in benefits more closely approximates the individual facts in each case. Unfortunately, the data needed for these calculations—much of it wages paid to individuals as many as 27 or more years ago—will not be readily available in many (perhaps most) cases, making it difficult for SSA to equitably administer the provisions of the bill. Inequities would occur in the application of the WEP because counting pre-1978 earnings for some cases and not for others (based on availability) would not be fair.

As an illustration, there would be a question of equity in recomputing the benefits of workers whose non-covered earnings are entirely before 1978. For those workers for whom the needed pre-1978 earnings information cannot be obtained, the WEP reduction would be entirely removed. However, for those workers for whom pre-1978 earnings are available, those earnings would result in a WEP reduction.

Repeal of the WEP would not result in equal treatment of teachers who were covered under Social Security compared to teachers who instead paid into a government retirement system. As I stated in my written testimony:

"The purpose of the WEP was to remove an unintended advantage that the weighting in the regular Social Security benefit formula would otherwise provide for persons who have substantial pensions from non-covered employment. This weighting is intended to help workers who spent their lives in low-paying jobs by providing them with a benefit that is relatively higher in relation to their prior earnings than the benefit that is provided for higher-paid workers."

"However, because benefits are based on average earnings in employment covered by Social Security over a working lifetime (35 years for retired workers), a worker who has spent part of his or her career in employment not covered by Social Security appears to have lower average lifetime earnings than he or she actually had. (In determining average earnings for Social Security benefit purposes, years with no covered earnings are counted as years of zero earnings, as if the person had not worked at all.) Without the WEP, such a worker would be treated as a low-lifetime earner for Social Security benefit purposes and inappropriately receive the advantage of the weighted benefit formula. The WEP eliminates this potential "windfall" by providing for a different, less heavily weighted benefit formula to compute benefits for such persons."

Thus, repealing the WEP would result in workers who spent a portion of their careers in employment not covered by Social Security receiving more favorable treatment under Social Security than comparable workers who had worked a lifetime in covered employment.

**Question:** One of the witnesses at the hearing testified that the SSA does not always immediately identify workers who should be subject to the GPO or the WEP, and as a result some retirees may accumulate a large overpayment of benefits by the time the SSA correctly applies those provisions to their benefits. The witness also recommended that the SSA hold these individuals harmless, absent any evidence of fraud. Do you agree with the recommendation? What do you recommend to prevent or minimize these overpayments?

Answer: Claimants for retirement benefits are asked at the time of application if they are receiving or expect to receive a pension based on non-covered work, and the application they sign affirms this information. If they expect to receive in the future a pension based on non-covered employment, the beneficiary is required to report such receipt to SSA. Once SSA learns of the pension receipt, SSA obtains verification of the pension and applies the WEP and/or GPO accordingly. Because claimants are made aware of the need to report these pensions, we have concerns about the recommendation to hold them harmless if they are overpaid because they have failed to report.

Waiving the overpayment would result in an incentive for the claimant not to tell SSA of the receipt of the non-covered pension. If the claimant knew that the overpayment would be waived, it would be in his/her best interest to not inform SSA

of the pension because the WEP or GPO reduction would only apply prospectively beginning at the point that SSA otherwise learns of the pension receipt.

Further, waiving the WEP/GPO overpayment in situations in which the beneficiary fails to inform SSA of the receipt of a non-covered pension may provide an advantage to this group compared to other similarly situated beneficiaries. For example, when a disability beneficiary fails to inform SSA of the receipt of a workers' compensation payment that is subject to Social Security offset, the resulting overpayment that occurs when SSA learns of the payment is not automatically waived.

The SSA largely relies on the applicant/beneficiary to correctly inform us that he or she is entitled or becomes entitled to a non-covered pension. To minimize overpayments that result due to retroactive application of the WEP and/or GPO, SSA has an ongoing computer-matching program with the Office of Personnel Management (OPM) that matches persons receiving Social Security benefits with persons receiving a pension from OPM based on non-covered employment. However, SSA does not have any similar program to identify Social Security beneficiaries who are also receiving pensions based on non-covered work for a State or local government. In addition, when the claimant states that he/she expects to receive a pension from noncovered employment in the future, SSA establishes a diary to alert claims personnel to recontact the claimant at the time the claimant has alleged that pension payments will begin.

To help address this problem, the President's FY 2005 Budget includes a proposal that would improve the administration of the WEP and GPO by improving the coordination of reports of pension payments based on employment not covered by Social Security. This change would give SSA the ability to independently verify whether beneficiaries have pension income from employment not covered by Social Security.

A past study of SSA's administration of the WEP and GPO provisions by the General Accounting Office (GAO) found that there are many beneficiaries who are not subjected to the WEP and GPO because SSA does not know they are receiving pensions based on non-covered employment. With the change proposed in the President's Budget, SSA would be able to obtain data on pensions based on non-covered work in a more timely and consistent manner. The proposal would thereby improve SSA's stewardship over the program and the Social Security trust funds.

#### **Questions from Chairman E. Clay Shaw, Jr. to Mr. Terry Hickman**

**Question:** You stated that H.R. 4391 would apply the same basic benefit formula to everyone. If H.R. 4391 would ensure that all workers are treated equally, regardless of whether part of their career was spent in jobs not subject to Social Security taxes, would you explain why you believe the WEP should be completely repealed? Should teachers who pay into a Social Security substitute receive more generous Social Security benefits than teachers who pay Social Security taxes on all their earnings?

Answer: The NEA supports repealing two Social Security Act amendments that negatively impact thousands of public employees including many teachers and education support professionals. The GPO (GPO) and WEP (WEP) unfairly reduce or eliminate benefits that employees or their spouses have earned and are expecting in retirement. These provisions impact educators, police officers, firefighters and other public employees who have dedicated their lives to public service. The WEP reduces the earned Social Security benefits of an individual who also receives a public pension from a job not covered by Social Security. The WEP causes hardworking people to lose a significant portion of the benefits they earned themselves. The number of people impacted by these provisions across the country is growing every day as more and more people reach retirement age.

While H.R. 4391 does initially apply the same basic benefit formula to all recipients, it then reduces the final benefit by a percentage. NEA believes this bill offers an important first step, but it does not ensure that educators and other public employees will receive all the benefits they earned by paying into Social Security. Therefore, NEA urges Congress to pass H.R. 4391 as a first step, but also to pass the Social Security Fairness Act (H.R.594), which would completely repeal both the GPO and the WEP.

The NEA believes that teachers and other public employees should receive the Social Security benefits they have earned by paying into the system. We do not believe that repealing the WEP or GPO would give public employees a more generous benefit, but would simply ensure them the benefits they or their spouse have earned.

**Question:** You state in your testimony that the WEP hurts teacher recruitment efforts, especially in cases where people are considering teach-

**ing as a second career. Would passage of H.R. 4391 help your recruitment efforts?**

Answer: The NEA believes that individuals who worked in other careers are less likely to want to become teachers if doing so will mean a loss of earned Social Security benefits. The WEP also causes current educators to leave the profession, and students to choose courses of study other than education. Passage of H.R. 4391 would be an important first step in providing relief from the negative financial consequences of the WEP and ought to encourage more individuals to enter the teaching profession.

Again, thank you and the House Ways and Means Committee, Subcommittee on Social Security, for addressing the Social Security provisions affecting public employees. We look forward to working with you on this issue.

**Questions from Chairman E. Clay Shaw, Jr. to Mr. Randall Iglehart**

**Question: You stated that H.R. 4391 would apply the same basic benefit formula to everyone. If H.R. 4391 would ensure that all workers are treated equally, regardless of whether part of their career was spent in jobs not subject to Social Security taxes, would you explain why you believe the WEP should be completely repealed? Should teachers who pay into a Social Security substitute receive more generous Social Security benefits than teachers who pay Social Security taxes on all their earnings?**

Answer: As I stated in my testimony last month, ATPE supports HR 4391. We believe that the formula proposed by the bill to calculate the Social Security benefits of persons also eligible for a government pension is a fair one because it will figure these workers' benefits in the same way that private sector employees have their benefits figured. Our advocacy of full repeal of the WEP has been based on our members' recognition of the inequities of the current law and their desire to receive the benefits they have earned while working in jobs covered by Social Security. We understand that full repeal of the WEP would create new inequities in the benefits formula and believe HR 4391 offers a workable solution and a fair compromise between total repeal and the current law.

**Question: You state in your testimony that the WEP hurts teacher recruitment efforts, especially in cases where people are considering teaching as a second career. Would passage of H.R. 4391 help your recruitment efforts?**

Answer: I also testified that removing the strong disincentive (WEP) in current law to become a Texas teacher would help the State of Texas with our massive shortage of certified teachers. If potential Texas teachers know that the Social Security benefits they have earned in other states or other careers will not be reduced by an arbitrary formula just because they are also eligible for a pension from the Teacher Retirement System, school districts will be better able to recruit the best and brightest into our classrooms.

**Questions from Chairman E. Clay Shaw, Jr. to Mr. Chuck Canterbury**

**Question: We appreciate your support for H.R. 4391. As you said, it would help police officers who enter a second career after doing so much to ensure Americans' safety. Are there any particular aspects of the bill you think could be improved?**

Answer: The F.O.P. supports H.R. 4391, the "Public Servant Retirement Protection Act," (PSRPA) which we view as a solid, compromise piece of legislation between the proponents of a full repeal of the WEP (WEP) and the GPO (GPO), as provided for in H.R. 594, the "Social Security Fairness Act," that was the subject of a hearing before the Subcommittee last May, and those who have concerns about the cost associated with the full repeal of both these measures.

In the view of the F.O.P. however, the issues of the WEP and GPO are linked. While we have no further suggestions to improve H.R. 4391 insofar as it addresses the WEP, we would be supportive of adding a new section to the bill which would address the unfairness of the GPO to law enforcement officers and their families and believe the legislation would be improved by such an addition.

**Question: According to a Public Pension Coordinating Council survey, about 40 percent of police officers and firefighters are subject to Social Security taxes in their jobs, and would not be affected by the WEP. Since H.R. 4391 results in equal treatment of both Social Security-covered and non-covered police officers and firefighters, would you explain why you believe the WEP should be completely repealed? Should police officers who pay into a Social Security substitute receive more generous Social Security**

**benefits than police officers who pay Social Security taxes on all their earnings?**

Answer: The enactment of H.R. 4391, the "Public Servant Retirement Protection Act," does make the treatment of public employees more equal, and it is for that reason that the F.O.P. supports its passage. However, the new benefit calculation proposed by this legislation still treats public employees who pay to participate in their own retirement plans differently than public employees who are inside the Social Security system.

The ostensible purpose of the WEP is to remove a so-called "windfall" for persons who spent some time in jobs not covered by Social Security (like public employees) and also worked other jobs where they paid Social Security taxes long enough to qualify for retirement benefits. The PSRPA does lessen this penalty and certainly treats public employees in a public pension plan better and more equally than the current formula, but the basic unfairness still exists—the Social Security benefits for which these employees were taxed are computed differently, not for different work or a different length of service, but solely because they receive a government pension from non-covered employment in the public sector. These retirement plans, many of which were designed and tailored with the public safety employee in mind, deliver a greater benefit to their participants than does Social Security. This is the so-called "windfall" that the WEP was designed to eliminate and it is also the basis for the new benefits calculation proposed by H.R. 4391.

We believe that Martin H. Gerry, Deputy Commissioner of Disability and Income Security Programs at the Social Security Administration, was correct in his concluding remarks at the Subcommittee's hearing on this legislation: "H.R. 4391 proposes significant changes to the manner in which the WEP is calculated. *These changes are intended to better target the effect of the offset so that the amount of the resulting reduction in benefits more closely approximates the individual facts in each case.*" [emphasis added]

The F.O.P. supports H.R. 4391 because it does treat public employees more fairly than the current formula. However, the fact remains that the benefit formula in the PSRPA is still a reduction that is applied only to those employees who receive a government pension for work outside the Social Security system who also worked at jobs inside the Social Security system and who paid taxes on these wages in the expectation that they would provide them with a future benefit. The F.O.P. maintains that this benefit ought to be calculated in the same way as any other employee's Social Security benefit, and not be reduced because they participate in a State or local retirement plan.

**Questions from Chairman E. Clay Shaw, Jr. to Mr. George Avak**

**Question: You mentioned that H.R. 4391 makes an important step toward helping teachers affected by the WEP. Would you explain in more detail how it would help retired teachers in California?**

Answer: HR 4391 would reduce the WEP (WEP) by approximately 10% to 30% for those currently retired teachers who are effected by the WEP. We estimate that over 40,000 California retired teachers are affected by the WEP and that many more will be affected in future years. The estimate of the 10% to 30% restoration for those affected by the WEP is based upon the HR 4391 examples developed for the legislation and our analysis of data from the State Teachers' Retirement System. Approximately 30% of the STRS members have joined the System after age 40. Presuming those who joined the system after age 40 had a career in Social Security prior to joining STRS, we then project for those retirees who are affected by WEP. Because the WEP reduction can be up to \$300 per month, the 10% to 30%, HR 4391 restoration would result in between \$30 per month and \$90 per month compared to the current application of the WEP.

**Question: You stated that sometimes the Social Security Administration (SSA) does not learn a beneficiary is subject to the GPO or WEP until they have received benefits for many years, thus resulting in overpayment of benefits. Individuals are asked whether they receive a government pension when they apply for benefits, and are required to report any changes in their government pension to the SSA. Why do you believe so many people become overpaid? How would you suggest we prevent overpayments from happening?**

Answer: We believe individuals indicate that they have a government pension when they are asked the correct question. However, it might not always be clear to either the person in Social Security filling out the form or to the individual applicant that this also then triggers a WEP or GPO effect. CRTA, State Teachers' Retirement System, California Teachers Association, and the United Teachers Los An-

geles are attempting to ensure that all current and future retirees are aware of this issue. CRTA believes that in addition to our efforts to inform current and future retirees, the SSA needs to have more significant training of their personnel to ensure that the questions are asked correctly and any necessary follow up questions are asked correctly.

The CRTA strongly believes that if the overpayment occurred because of Social Security staff error, then the individuals should not be excessively penalized for that overpayment. We recommend the repayment be no more than 5% of the monthly Social Security allowance reduced until the overpayment is paid. We do not advocate this, however, in the case of fraud or intentional misrepresentation. In those cases, the full overpayment should be recovered as soon as possible, if not immediately, and any appropriate legal sanctions should be applied.

Thank you for this opportunity to respond to your supplemental questions.

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[Submissions for the record follow:]

**Statement of Jeanne M. Alberti, Harvard, Massachusetts**

I am writing to explain my concerns regarding the WEP and the GPO, and to urge you both to pass H.R. 4391, the Public Servant Retirement Protection Act, and to work toward repealing both the WEP and the GPO.

Both my husband and I worked for many years in the private sector, each of us earning enough quarters to be eligible for Social Security benefits upon retirement. When we started our family and bought a house, I continued to work by writing the local newspaper, and selling Avon products, which I could do from home while raising our children. My husband continued his education, getting his doctorate, and went into teaching at Northeastern, a private university.

In order to help out financially, I finished my degree, and taught at a Catholic high school for two years before entering the public education system. Eventually we both decided to spend the largest part of our career years teaching in public education, myself at the high school level, and my husband at the university level. My husband, now deceased, had a gift for teaching and connecting with university-age students. I myself have loved teaching, and though retiring this year, will miss it greatly.

Since my husband's death I have been receiving a small pension from the Commonwealth of Massachusetts, as he died before retiring, just after reaching his 50th birthday. His Social Security benefits, which I am not yet eligible for as his widow, are currently approximately \$600 per month.

Having retired this year due to health concerns, and as I didn't start public school teaching until the age of 40, I will be receiving a pension of only 36% of my annual salary, which is only slightly more than the 2/3 of my husband's Social Security benefits to which I would be eligible next year on my 60th birthday. This completely wipes out for me any widow's benefits I might have been expecting. In addition, at age 62, when I might be able to begin collecting on my own Social Security benefits (which are approximately \$350 per month at the moment), my benefits will ostensibly be cut in half due to the pension I am receiving from the Commonwealth of Massachusetts.

Together, my husband's annuity and my pension total barely enough to cover my present living expenses. I foresee future possible medical expenses, and worry how I will cover them when the time comes. Although retired, I will be looking for ways to find additional income in the next few years, while I am still healthy and can do so. To have to pay more into Social Security in the next few years will be a very unfair situation considering my expectation of receiving little in return.

I fail to see how either my public school teaching pension or my Social Security benefits could be construed as a "windfall" or "double dipping." If I have worked at separate jobs, why am I penalized, and not able to collect benefits from each job worked?

Teaching is hard work, and though my first inclination was that it would give me time with my family, I came to love the opportunities I was given through teaching to work with and be inspired by the teenagers I taught. I find it incomprehensible that I am now struggling to make ends meet because I changed careers from the private sector to committing myself to the community and our nation through public education.

I respectfully urge the committee to move quickly to move the Public Servant Retirement Protection Act swiftly to final passage and enactment. In addition, I ask

you please to look for ways to repeal completely both the WEP and the GPO as Congress continues to explore these issues.

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Midlothian, Texas 76065  
*July 20, 2004*

House Ways and Means Committee  
Social Security Subcommittee

Dear Sirs:

I am writing this letter as a plea to quickly pass the Public Servant Retirement Protection Act, which will ultimately repeal the Government Pension Offset of Social Security provision and the Windfall Elimination Provision. These laws penalize the people who have dedicated themselves to serving their communities and their country. Most of us have sacrificed financially in the first place by providing these services. As it stands now, I would never encourage anyone to enter the education field knowing what they would be facing at retirement age. My particular situation is as follows:

I am a single woman and have 25 years of social security contributions (19 years that "count"), but have spent the last 12 years working for a public school district. I will be eligible to retire from Teacher Retirement Service (TRS) in 8 years. Since I am a secretary (lower salary=lower annuity), my retirement will not cover my living expenses. I was counting on supplemental income from social security to help offset this deficiency. I have recently attended a seminar, which clarified that my social security will be cut by approximately 66% because I will be drawing retirement from TRS.

I realize that my contributions to social security ceased when I began my employment with the school district, but feel that I should be allowed to draw the full benefit that I earned with 19 years of prior contributions. Without this, I will fall into the poverty level and will most likely be forced to sell my home.

My projected TRS retirement annuity will be approximately \$1100/month. My full social security benefit is \$575/month. I will be hard pressed to live on \$1675/month when I am 65 years old but if that social security figure is further reduced to \$200/month, I will be forced to sell my home and rely on government assistance. This is NOT what I worked my entire life for.

I'm not asking for anything more than what I feel I have earned but I would like to know that what I have contributed to social security was, indeed, mine and not be penalized for drawing retirement from TRS. Had I been self-employed these last 12 years, I would not have suffered from this reduction in benefits. Had I just stayed home and not worked, I would not have suffered from this reduction in benefits. Had I retired from ANYPLACE other than TRS, I would not have suffered from this reduction in benefits.

I know that I am just one of many who have similar situations. Please listen to our pleas and move the Public Servant Retirement Protection legislation through your committee.

Respectfully,

Judy A. Bates

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**Statement of the Honorable Howard L. Berman, a Representative in  
Congress from the State of California**

Thank you, Chairman Shaw, Ranking Member Matsui and Members of this Committee for holding this hearing to highlight the unfairness facing some public employees upon retirement.

The Government Pension Offset (GPO) and Windfall Elimination Provision (WEP) are two provisions of Social Security law that directly affect public servants who, throughout the course of their career, earned both a Social Security benefit and a benefit from a Social Security substitute, such as a state pension plan. The GPO reduces or eliminates Social Security spousal benefits if the worker's spouse has a government pension based on work that was not covered by Social Security. Likewise, the WEP reduces Social Security worker benefits based on work history by applying an arbitrary formula to calculate benefits.

Public employees—teachers, police officers, fire fighters—face the possibility of losing up to two-thirds of their retirement benefits as a result of the GPO and WEP.

While these two provisions were created to help equalize the treatment of workers, the consequences have proven to be a significant financial burden for many of our nation's retiring public servants.

Today, more than 758,000 public servants in thirteen states today face up to a \$306 reduction in their monthly Social Security income upon retirement.

In early February 2003, Congressman "Buck" McKeon and I introduced legislation to repeal both the Social Security Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP). Our bill, the Social Security Fairness Act (HR 594), has 300 cosponsors.

Since introducing H.R. 594, I have been working with you, Mr. Chairman, other members of Congress and with various advocates to provide workers affected by the GPO and WEP with some financial relief *before the end of the year*. That is why I am an original cosponsor of H.R. 4391, the Public Servant Retirement Protection Act, introduced by Congressman Kevin Brady, which takes a meaningful step in granting some relief to these dedicated workers.

The Public Servant Retirement Protection Act provides an immediate solution to the arbitrary WEP adjustment of worker retirement benefits by implementing a formula that calculates retirement benefits in proportion to each worker's actual work history. Specifically, the legislation repeals the arbitrary WEP formula and treats the Social Security contributions of public servants the same as those of the rest of the American workforce. Under this legislation, a worker's entire work history, regardless of whether he or she paid into a Social Security substitute, would be used to calculate benefits.

Although H.R. 4391 does not address the GPO, it does provide immediate relief for retirees and their families while serving as an amicable bipartisan compromise. H.R. 4391 is an important first step leading to a full repeal of the GPO and WEP. I urge you, Mr. Chairman, to move this legislation to the Floor as quickly as possible.

Thank you again for holding this hearing. I hope that this is one of many steps that will lead to the elimination of this inequity in our nation's Social Security policy.

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#### **Statement of Carolyn J. Bishop, Belmont, Massachusetts**

Please accept my statement for the record for the hearing by the Committee on Ways and Means, H.R. 4391. The Public Servant Retirement Protection Act:

As a statement on the unfairness of the current WEP provision I would like you to consider my story. I contributed to Social Security while a teacher in NY State for three years, while a teacher in a private school in MA for 6 years and during various summer jobs before, during and after college. I had my 40 quarters in and am eligible to collect benefits of over \$600 a month and of course a portion of my husband's benefits should I survive him.

However, because for 24 years I taught in the MA public schools I am receiving a pension from the Mass Teacher's Retirement System. This pension is based on 24 years of 3/4 pay because that is what I made as a full time Kindergarten teacher in the Brookline Public Schools. I retired at age 56 because of personal health reasons. Therefore I retired on 40% of my 3/4 pay, which amounts to about \$15,000 a year . . . obviously not enough to live on!

When my husband turned 65 in 2002 and went to the Social Security office to inquire about his benefits, the agent urged me to start collecting at my age of 62, and then gave me the bad news about WEP/GPO: my benefit is reduced by 2/3s to \$225 from which is now deducted by \$66.60 Medicare since I turned 65 this spring. My survivor benefits would also be seriously reduced. Now if I were unfortunate enough to be single and trying to survive on my own pension plus SS you can see I could not manage.

Teachers in New York State contribute to Social Security and a retirement system and are able to retire relatively comfortably. Not so in Massachusetts.

As it is the unfairness of the situation still rankles! If I had not contributed to SS then of course I should not expect to collect. If I had been offered the option of contributing during my Massachusetts Public School teaching years and refused it, then I should not be able to collect. But to have contributed through those many years and not be able to collect what should be due me is UNFAIR! Add that to the fact that my income from my pension is exceedingly low, the spectre of struggling by in my senior years is very real, especially if widowed.

It is ironic that "public servant" has come to mean just that, being treated as the lowliest of servants when it comes to collecting the Social Security to which we are due. When accepting and performing the low paying public position for the rewards of teaching in the public school, I never dreamed I would be penalized by the Social Security system at retirement.

This unfair provision must be repealed and repealed retroactively to bring those of us who are being cheated into a living wage. Thank you for your consideration of my statement.

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#### **Statement of Martha E. Blackwell, Sunnyvale, California**

At age 76, the GOP and WEP prevent me from retiring from part time teaching. My California State Teacher's Pension is \$752 a month. My Social Security benefit has been decimated to \$200 a month by the GPO and the WEP. My retirement income does not cover the rent and mortgage on my very modest Mobile Home in Sunnyvale, CA., not to mention other living expenses.

I was married to a Methodist pastor for 32 years and assisted him in the churches he served while he paid into the Social Security system. During those years, I worked full time and part time (and paid into S S) and raised two children. I fully anticipated being eligible for a modest retirement income from my spouse's account as well as the portion I earned on my own. I am denied all but \$200 because of my very modest California Teacher's pension of \$752 a month. Divorced at age 61, I earned a Master's Degree in order to resume teaching in order to support myself.

I respectfully request that you repeal or at the least modify the formula in these laws which unfairly penalize teachers (as well as other public servants) such as myself who, after working many years, find ourselves living barely above the poverty line.

I do not believe these laws were designed to create the circumstances I have described. I sincerely hope and pray that you will seriously consider the hardship that many of us are enduring and take action during this Congressional session.

I heartily commend Anna Eshoo for her hard work on our behalf and I thank the 300 co-sponsors of HR 594.

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#### **Statement of Charlene Bovee, Long Beach, California**

I do not have access to word perfect. I would like to respond to HR 4391. I think Teachers et al should be able to get Social Security and their retirement. I am a widow and cannot even get my husbands social security because I get a teachers' retirement! Thank you for considering this response.

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#### **Statement of Richard Kirk Bowers, Spring Branch, Texas**

This letter is to inform you that I am in favor of the repeal of the Social Security, Windfall Elimination Provision on federal retired employees. I paid in my quarters and feel that I am entitled to my fair share.

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#### **Statement of Maurice A. Bracken, North Brookfield, Massachusetts**

I am a veteran teacher of electrical technology at Tantasqua High School in Sturbridge, MA. I have been here in the trenches for 20 years. Although many years ago I took a substantial cut in pay and benefits to leave employment in the electrical trade for a career in public education, I am proud to say that I have made a significant difference in many young people's lives. I know this because the past graduates stay in touch with me and I am privileged to watch them grow into contributors to our society.

I began working on a farm at the age of 13 and began contributing to Social Security at that time. I contributed into Social Security for 20 years before I left the sys-

tem to start work as a public school teacher in a state (Massachusetts) that has its own public employee pension system. Now I find out that my benefits as a citizen contributor into Social Security will be severely depleted because of the GPO-WEP laws that currently exist. Worse than that, my spouse will not receive the normal death benefit from the system when I pass on!

Truthfully, if I had known the consequences of leaving the Social Security system 20 years ago I doubt that I would have made the choice to switch careers. One of my former students, a gainfully employed electrician, wishes to make a similar career choice to teach in a public vocational school and I am advising him not to! This will be a loss of a fine teacher to the future of America. This example is typical of the hurdles the educational industry has to overcome in hiring qualified teachers in every subject area, due in no small part to the GPO/WEP laws.

I understand the original logic of the law. I respectfully submit however, that my circumstance, which is typical, is not the intention of the original legislation. People like me, and our loved ones, are being penalized for making an unselfish career choice many years ago. This affects not only teachers, but also any public servant who retires from a non-contributing state. We are not seeking a "windfall", but rather are trying to secure only the benefits that we paid for, and not to have our families penalized because we choose to serve the country we love!

I urge the Committee to favorably move the Public Servant Retirement Protection Act to enable its enactment into law. This will provide some temporary relief to my colleagues who are facing retirement soon. My ultimate goal is for the complete elimination of the GPO/WEP laws. I believe the Public Servant Retirement Protection Act is an important step towards that goal.

Thank you for this opportunity to testify.

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#### **Statement of Janet Brandwein, Newton Center, Massachusetts**

- I retired in 2000 after having taught for 28 years in Massachusetts having moved to Massachusetts when my husband's profession brought us there. I taught in New York and Maryland and had paid into Social Security while working at other non-teaching jobs as well. I will be 67 years old in September and have paid into Social Security since age 16.
- I was fully vested only to learn that I would receive only 40% of what I would otherwise have been entitled to because of the WEP; *after the fact and when it was too late to make a career decision based on this knowledge.*
- The Windfall Elimination Provision was enacted after the fact of my paying into Social Security and thus withdrew the social contract promised by the government. I now receive \$86 per month, 40% of what should have been my allotment and a sad thank you for a teacher.
- It is terribly unfair and discriminatory to single out and penalize those of us who chose careers in public service while retirees who worked in the private sector receive no penalty at all.

In addition to the WEP's effect on retirement security, because of the Government Pension Offset provision, were I to be widowed, I would receive *nothing* in survivor benefits through my husband's Social Security despite the fact that, at age 70, and still working, he has paid into Social Security at the maximum rate for half a century. Who would choose a teaching or other public service career today knowing they would lose so much in benefits???

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#### **Statement of Dennis E. Buccola, Rock Falls, Illinois**

I am writing to you with my concern about the Social Security Bill. I worked hard putting myself through college as a young adult. I entered the teaching profession because I wanted to work with kids and to help mold them into becoming successful citizens. While attending college I worked full time to keep my head above water. I continued working in retail for over 20 years. I have paid thousands of dollars into the social security program and am STILL paying into it. I have heard over the years I will not be able to collect any of this money since I am a teacher. How UNFAIR! If I am not able to collect SS, then why am I being forced to pay it? All I am asking is that I am given the SS that I am entitled to when I retire. It is so unfair that since I chose to enter the teaching field, that I will not be able to collect.

Public servants should NOT be discriminated against. We are underpaid as it is. For those of us who have paid into SS and have over their 40 quarters, should be entitled to collect their benefits or be given a refund of those contributions.

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**Statement of Judith Michaels, California Federation of Teachers,  
Sacramento, California**

The California Federation of Teachers, American Federation of Teachers, AFL-CIO submits this testimony because of the serious affect the Government Pension Offset and Windfall Elimination Provision of the Social Security Act have upon our more than 100,000 active and retired members, specifically those who are members of the California State Teachers Retirement System (CalSTRS). Many California teachers have earned Social Security benefits by working second jobs or from private-sector jobs they held before becoming teachers. In addition, many mid-career individuals reject teaching when they discover that they would have to give up Social Security benefits during retirement if they become teachers. Our teachers, former teachers, and prospective teachers cannot count upon a full Social Security benefit, either as a benefit from work they may have done under Social Security or from benefits earned by a spouse.

The California Federation of Teachers supports H.R. 4391, the Public Servant Retirement Protection Act (PSRPA), revising the Windfall Elimination Provisions of Social Security, as a step forward that would partially correct current inequities by looking at each member's full career, work covered by both Social Security as well as in California teaching. We realize that H.R. 4391 addresses only the Windfall Elimination Provision. Since H.R. 4391 does not address the Government Pension Offset (GPO), we urge your support for an amendment to the bill that will address the harsh effects of the Offset on California public school teachers. H.R. 594, the Social Security Fairness Act, legislation that would repeal both the WEP and the GPO, now has 300 bipartisan cosponsors, including several of the cosponsors of H.R. 4391.

We urge you to take steps to make sure that public employees will not have to worry about their retirement because of the provisions that reduce Social Security spousal and worker benefits. We would like to see both H.R. 4391 and legislation to address the Government Pension Offset pass the 108th Congress and become law. Passage will encourage qualified teachers to remain in the classroom, and support mid-career individuals to become public school teachers without giving up the Social Security benefits to which they would otherwise be entitled.

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**Statement of Gary Lynes, California State Teachers' Retirement System,  
Sacramento, California**

***Introduction***

Established by State law in 1913, the California State Teachers' Retirement System (CalSTRS) provides defined pension retirement benefits to more than 735,000 active and retired public school teachers and their beneficiaries. Thus, CalSTRS was in operation some 22 years before Social Security was created. At the time Social Security was established, California's teachers and all other State and local government workers were barred by Federal law from participating. California public school teachers are the largest single group of State and local government employees in the country who do not participate in the Social Security system. Through sound management over nine decades, CalSTRS has developed into the third largest pension system in the United States, with assets of over \$116 billion. CalSTRS currently provides almost \$5 billion a year in retirement benefits.

The California Teachers' Retirement Board has previously expressed its strong concerns about the impact of the Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP) of the Social Security Act, particularly on California's ability to recruit and retain workers from other professions into second careers as teachers and teachers from other states. California would be better able to recruit and retain future California educators if these professionals did not face reductions in their future Social Security benefits. Accordingly, in 2003, the Board supported California Assembly Joint Resolution 29, which requests that the President and

U.S. Congress enact legislation that removes the burdensome effects of the WEP and GPO. Absent full repeal of the WEP and GPO, CalSTRS supports efforts to eliminate the inequities resulting from the application of the WEP. Benefits should not be determined by provisions that are arbitrary and unrelated to the very government pensions which subject those individuals to the offsets.

H.R. 4391, the Public Servant Retirement Protection Act (PSRPA) represents a good first step to addressing these inequities. The Teachers' Retirement Board supports the general approach taken by the PSRPA to address the inequities created by the WEP under current law. In addition, the Board stands ready to work with the Subcommittee in exploring possible legislative solutions to relieve similar inequities created by the GPO.

#### **The Windfall Elimination Provision Hinders Efforts to Attract Qualified Teachers**

CalSTRS members do not pay the Social Security payroll tax on their earnings from CalSTRS-covered service, and therefore are not entitled to Social Security benefits for such service. Nonetheless, many CalSTRS members are eligible for Social Security benefits either because they were employed in Social Security covered positions for some period of time or are the spouses or widow(er)s of individuals who were employed such positions. However, the WEP reduces Social Security benefits of teachers in California public schools, who worked in education long enough to receive a CalSTRS pension and also worked other jobs for which they paid Social Security taxes long enough to qualify for Social Security retirement or disability benefits.

Many California educators have complained that the WEP creates an unfair reduction in the Social Security benefits that they have earned. In addition, California schools have indicated that imposing a reduction in Social Security benefits has a negative effect on efforts to recruit and retain teachers. Specifically, the WEP may reduce the willingness of people who have worked in Social Security-covered service to change to employment, such as public school teaching in California, if it results in a reduction in Social Security benefits. This is particularly true for individuals who are considering teaching as a second career or taught in another state under Social Security.

Creating an impediment to people who might otherwise want to change careers to become public school teachers in California may hinder efforts by school districts to attract new people to the California classroom. Currently, there are over 100,000 public school educators in California who are eligible to retire and over 35,000 who are 60 years old or over. Clearly, most of these people will be retiring over the next decade. Although many enter the teaching profession at the beginning of their career, a significant portion become teachers as a second career, after lengthy work in the private sector covered by Social Security. In addition, individuals work as educators in a state in which their earnings are covered by Social Security, but later desire to teach in California. The current WEP may cause persons who otherwise would receive a full Social Security benefit to decide not to become public school teachers in California, if their Social Security benefits would be substantially affected by their California service. This makes it more difficult for California school districts to find qualified educators to replace those who will be retiring in the near future.

#### **H.R. 4391 Is a Significant Step Forward to Correct Inequities Caused by the WEP**

Unlike the arbitrary WEP offset formula, which reduces the Social Security benefit from the covered employment unless the individual has 30 years of substantial Social Security covered earnings, the PSRPA replaces the WEP with an approach based on each worker's actual work history. More fairly, it uses the standard benefit formula based on an individual's entire work history as if all the individual's earnings were subject to Social Security taxes with the benefit multiplied by the percent of earnings subject to Social Security taxes. Similar to the current Social Security benefit formula, the earnings that are covered and the earnings that are not covered by Social Security would be adjusted for inflation.

A more detailed analysis of H.R. 4391, its impacts on CalSTRS members, and issues raised by the current version of H.R. 4391 is attached to this written statement.

#### ***Conclusion***

PSRPA represents a new approach to addressing some of the concerns of the Windfall Elimination Provision. The proposal would result in a larger and more equitable Social Security benefit for most affected CalSTRS members. For some future

workers, there could be a reduction in Social Security benefit as compared to the current WEP, although typically the cut would be relatively modest compared to the increases in Social Security benefits to others.

Although the Teachers' Retirement Board remains concerned about the adverse impact of the Social Security offsets on California's efforts to recruit and retain people to serve as public educators in California, the Board, on behalf of its 735,000 members, supports the efforts reflected in the Public Servant Retirement Protection Act to provide a more equitable adjustment in Social Security benefits to those members who receive both government pensions and Social Security benefits. We stand ready to work with the Subcommittee on some minor changes to the legislation to improve its equitability and resolve potential administrative burdens.

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#### **Statement of Robert Arthur Cannon, Rockport, Massachusetts**

I am writing in favor of the "Public Servant Retirement Protection Act" as a proper and appropriate step to correct the existing situation, which is blatantly unjust and a grievous disservice to public servants and the people they serve.

Approaching retirement, my wife and I decided to finish our working careers in public education as a way to contribute to the future of our community, state, and country. We had no idea what a personal financial calamity would ensue due to the misfortune of our living in one of a few states where public servants are singled out for a so-called "Windfall Elimination Provision" or "Government Pension Offset". After a lot of effort to fathom this complicated and arbitrary WEP/GPO, it is our understanding that we must either give up pension benefits in the last years of our working lives or lose roughly **two thirds** of the Social Security benefits we have **already** earned. Believe me, when you look at the numbers for people changing careers to serve the public, this is no windfall! If the 108th Congress does not take action soon, we will have to leave our service careers in order to meet basic family financial responsibilities. How ironic it will be if we—and many others in our situation—have to leave our *government* jobs in order to keep the *government* retirement benefits of Social Security we have been earning all the previous decades of our working lives.

At a time when the *Committee on Ways and Means* states that "America's economy is strong and growing" your action is needed to backup stated administration priorities for education and other public service efforts by supporting H.R. 4391 now.

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#### **Statement of Henry L. Carbone, Fort Kent, Main**

I would like to ask for help in correcting a wrong that has been done to retired teachers in the State of Maine and other states that have their own retirement systems.

The Public Servant Retirement Protection Act offers an important first step toward the ultimate goal of repealing both the WEP and the GPO. It will make a real difference for many public employees, who will receive increased Social Security benefits as a result.

I recently retired after thirty-eight of teaching in secondary education and now faced with the reality that my other career as an adjunct faculty member at the University of Maine at Fort Kent will have been and is for not. I have been employed for twenty-seven years at the university, working to supplement my state retirement because of low teaching wages. Now I find that my social security will be reduced by sixty percent because I already have a pension from the state. This is not fair, as I have worked two careers so I would be able to enjoy my retirement. This is not a case of double dipping. I have put the hours into both jobs and should be able to receive the benefits that I am entitled to from each.

We who have earned Social Security benefits are not getting a "windfall." We are merely asking to receive the benefits we earned.

I urge the Committee to move this important bill quickly to final passage and enactment into law, and I urge Congress to continue to work toward full repeal of both the GPO and the WEP. Thank you in advance for any help you give on this important matter. Time is of the utmost importance to me as I am quickly reaching full retirement age.

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**Statement of Margaret Ann Castro, Cypress, Texas**

My name is Margaret Ann Castro. I am a teacher in the Cypress Fairbanks School District in Cypress, Texas. I have taught in this district for 14 years, and twice during that time have been named the Spotlight Teacher of the Year for my campus (Millsap Elementary and Hamilton Elementary). I have also been a participant in the NEWEST program, which is a 2 week training program sponsored by NASA for math and science teachers. I received my Masters in Early Childhood Education in May 1985 after working 13 years in the business world. Throughout my years of teaching I continued to work part-time to supplement my income, especially once my two children began college. I love teaching, and do not want to give up this career. However, I face losing major portions of my own social security income and that of my husband's (in the case that he predeceases me) due to the unfair laws currently in effect. I am asking you to correct this inequality to me and to all other public servants the law affects. My last statement from social security states that at retirement age of 66 years, my benefits would be \$663 a month. This is money I paid into social security myself. I WOULD NOT be "double dipping"! I have paid into two different retirement programs and should be able to receive complete benefits from both without being penalized. With my understanding of the law as it now stands, I would stand to lose between \$600 and \$700 per month from social security benefits owed to me or to my husband, merely because I have served as a public school teacher. This represents a major drain on my retirement income. This is not fair, and it is a shame to penalize those of us who teach our future generations. I ask you to please revoke the existing laws and quit penalizing teachers and other public servants. Thank you.

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**Statement of Jeff Clary, Spring, Texas**

To Those People Who Care About Our Children:

I write to you as a teacher. I made a career change six years ago and have invested my life since in young people. I always hear people talk about the importance of education, how children are our future. I have chosen to not only talk, but to do something. I hope you will join me!

Recently, I have discovered that my government has decided that the Social Security money that I paid in during a previous career shouldn't be mine. I am not referring to unearned benefits. I am talking about money I contributed. Although it really isn't relevant, it should be noted that in my previous career, I was an independent contractor, so I paid ALL of those benefits directly, myself! Now, I discover that teachers, who are in another retirement system, are barred from collecting their SS benefits. Imagine that, the people who are in charge of caring for our future are asked to turn over all those retirement earnings and start again at zero. Where is the support for our children in those actions?

We constantly hear of teacher shortages. The newspapers tell story after story of troubled children facing difficult times. We only have to turn on the TV to discover the plight of thousands of young people born into desperate situations. Yet teachers across this country dedicate themselves to fighting for those kids. A short visit with any seasoned teacher will expose you to a series of sad stories of kids in need.

It is no secret that those very teachers can never aspire to earn their way to the top levels of society. Personally, it is my wife's income that allows me to continue to teach and maintain my standard of living. I am not asking for a handout; simply allow me access to my money.

If you are truly concerned about our children, then you will support those with whom you have entrusted their care. Please allow Texas teachers to collect all the retirement benefits they earn, both as teachers and in their other careers.

Do it for the children!

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**Statement of Robert Gray, Colorado Public Employees' Retirement Association**

Chairman Shaw, Ranking Member Matsui, Members of the Subcommittee, I am Robert Gray, Director of Government Relations for the Colorado Public Employees' Retirement Association (PERA). PERA covers 177,000 active state, school, local government, and judicial employees in Colorado. PERA also pays monthly lifetime benefits to 67,000 retired public employees and survivor beneficiaries. Except for a few of the local government members, PERA members are not covered by Social Security from their public employment with a PERA employer.

I would like to thank you for having the hearing on July 20 and receiving written testimony on H.R. 4391, the proposed Public Servant Retirement Protection Act (PSRPA). PSRPA would affect thousands of state, school, and local workers who will receive or who already are receiving benefits from public employee retirement systems from their employment not covered by Social Security.

Colorado PERA has followed the Social Security Windfall Elimination Provision (WEP) since it was enacted over 20 years ago and revised in 1988. There have been a number of attempts to revise or repeal WEP since then. H.R. 4391 has many strong features, and Colorado PERA urges the Subcommittee to approve this bill and send it to the full Ways and Means Committee.

The original purpose of the WEP is to ensure that public employees who work a part of their career in Social Security-covered employment and the other part of their career in public employment outside Social Security, do not receive an unfair advantage from the weighting in Social Security's regular benefit formula. Social Security is a social insurance program in which benefits paid to low-income workers replace a higher percentage of pre-retirement earnings than for higher-income workers. For example, in 2004 Social Security replaces 90 percent of the first \$612 of a worker's AIME (Average Indexed Monthly Earnings), and replaces 32 percent of the next \$3,077 of AIME.

Because weighting occurs in all Social Security benefit calculations, it makes sense that public employees who have pensions from employment not covered by Social Security should be treated for Social Security benefits in some manner that takes into account their entire career earnings. Public employees who also have other employment in their careers that was covered by Social Security should not be accorded the advantage normally given only to low-income career workers in the calculation of their Social Security benefits.

PSRPA would accomplish this goal better than WEP. PSRPA would use a sounder concept for calculating the Social Security benefit. It compares the average indexed earnings covered by Social Security to the average indexed earnings during the worker's entire career, and bases the Social Security benefit on this ratio.

PSRPA would apply to public employees' Social Security benefits the same earnings-based weighting that is currently used in Social Security benefit calculations. According to examples prepared by the Subcommittee, the Social Security benefit under PSRPA to a low-wage career earner would replace a higher percentage of his average SS-covered indexed monthly wages than would be replaced for a medium-wage earner or a high-wage earner.

The WEP calculation, on the other hand, uses fairly arbitrary percentages in order to calculate the "windfall" reduction. Employees who meet other fairly arbitrary thresholds of income earned and years worked are exempt from WEP.

Colorado PERA prepared seven examples of employees with differing work patterns. In six of the examples, the Social Security benefit under PSRPA would be higher than the benefit under WEP. This occurred whether the employee first worked under Colorado PERA and then went to a Social Security-covered job, or started in Social Security and ended the career under PERA. A table showing results for all seven examples is attached.

For worker 7 in the table, WEP provides a larger benefit than PSRPA, but only because the worker has 33 years of "substantial earnings" under Social Security and is exempt from WEP. However, PSRPA would grandfather active and retired public employees, including worker 7. Under H.R. 4391 an employee would receive the greater of the benefit under WEP or PSRPA if he or she is already retired or had public employment outside Social Security prior to 12 months following enactment of H.R. 4391.

The examples in the table are consistent with the findings of several other groups that show that most public employees would receive larger benefits under PSRPA than under WEP.

In addition to providing larger benefits under a fairer method than WEP, Colorado PERA believes that H.R. 4391 is attractive for other reasons.

Many Colorado PERA members make good use of portability provisions in PERA to purchase additional years of service credit based on prior, nonvested employment with another employer. In many cases, the prior employment was covered by Social Security. The maximum reduction under WEP is \$306 per month in 2004, but in no case greater than one-half of the PERA retirement benefit. The PERA benefit, for purposes of the WEP, excludes the purchased service if the prior employment was covered by Social Security. Currently, PERA completes a special form to calculate the correct PERA benefit that is used by SSA for determining the WEP reduction in Social Security benefits. H.R. 4391 would eliminate this step because under PSRPA, the amount of the PERA retirement benefit would not affect the Social Security benefit.

The cost to the Social Security trust funds is far less for H.R. 4391 (PSRPA), at \$7 billion over the next 10 years, than the cost of full repeal or the cost of H.R. 4234, which would eliminate WEP for public retirees with income below a certain figure.

H.R. 4391 addresses how best to provide benefits to public employees who have also worked in covered employment for enough years to qualify for Social Security benefits based on those earnings. It does so without mandating Social Security coverage.

Colorado PERA opposes mandatory Social Security because the current PERA retirement system has worked very well in the eyes of employees, retirees and employers. PERA provides very comprehensive benefits as a substitute for Social Security, and PERA is an attractive part of the benefits package for Colorado public employees. All seven examples from the attached table show that the worker received a significantly larger benefit if he was covered by PERA during his entire career than if he was covered by Social Security during his entire career.

The Colorado General Assembly has stated several times that it also believes that its employees are already well-served by existing retirement plans that do not include Social Security. Mandatory Social Security coverage would increase costs to taxpayers and employees, and challenge the soundness of the current plan. In the long run, mandatory coverage would not significantly benefit Social Security.

The Social Security Administration testified at the hearing on July 20 that it would be difficult to obtain data for employees' earnings prior to 1978, or to estimate it. The Internal Revenue Service has received wage and salary earnings reports from all employers for years, and if it was retained, it would seem the IRS could transmit this information to SSA. Colorado PERA would be willing to work with federal agencies and national public pension groups to try to find a workable solution to data problems.

### **Conclusion**

Colorado PERA urges the Social Security Subcommittee to adopt H.R. 4391 and greatly appreciates the efforts of the sponsor and cosponsors to improve equity in the calculation of Social Security benefits for state and local workers who have earned those benefits.

Thank you for the opportunity to submit this testimony. I would be glad to provide further information or answer any questions the Subcommittee may have.

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Braintree, Massachusetts 02184  
July 15, 2004

Dear Sir or Madam:

I am a reading specialist for the Braintree Public Schools in Braintree, MA. I spend my day helping children in grades 1–5 improve their reading skills, something I consider extremely important. I am writing to you concerning the Windfall Elimination Provision, Government Pension Offset, and the Public Servant Retirement Protection Act. I want to thank you for working on this bill because its passage will make a tremendous difference to my family and me.

I am 51 years old and left a position in private industry in 1994. I had worked for 13 years in an extremely well-paid position, a systems analyst in the communications industry. I left my job to get my master's degree in education from Lesley University in Cambridge, Massachusetts; something I had always wanted to do. It took me four years to complete my degree and find a teaching position. Because of the years I spent working in private industry and the years spent working on my graduate degree, I will never be able to receive a full teacher's pension. In addition, the pension I will receive for those 13 years at my former company will be minuscule. Little did I know I would have little else on which to fall back.

When I left what was then the NYNEX Corp. (now Verizon) to go into education, it was for all the right reasons—social security and retirement issues never entered my mind. I knew I would be taking a tremendous salary cut (I am making about the same salary now in 2004 that I was making at NYNEX in 1994). However, I had absolutely NO idea that making this particular career change would have such a detrimental effect on my retirement income. The public pleas from state and federal government encouraging those in business to switch careers and enter teaching failed to inform about what we would be giving up. Many of the years that I was employed in the telephone industry seem to be for naught when it comes to my Social Security benefits. I also don't understand why, as a spouse, my survivor benefits will be cut. My husband has worked only in private industry, so that represents a significant loss for me as well.

I worked in private industry while my children were small. Financially our family, like so many others, required two incomes to make ends meet. Those were very difficult years for us. However, during those years, one consolation to me was that I was building retirement security. What is the *windfall* that this provision speaks of? It is only money I earned through hard work and sacrifice. To think that I am going to receive basically no credit for that work and also stand to lose most of my husband's benefit because I chose to enter the teaching profession seems cruel, unfair, and I must say, unfathomable.

Sincerely,

Patricia E. Cook

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#### **Statement of Tracey Cook, Lisle, Illinois**

I am writing to support the passage of the bill. My husband, Donald R Cook and I are both impacted by the current laws that prevent us from collecting our social security benefits at 62 or 65. We are not unique. We never expected to get rich in our careers. We have simple goals, but we do believe that we deserve the benefits we have paid. Both of us paid into social security in our first careers; both of us have earned the necessary credits to receive benefits. However, both of us chose to enter public service careers. I am a teacher and he is a firefighter. When we decide to retire, we will receive reduced benefits, if any, from Social Security. Public servants in other states receive benefits from more than one retirement plan. I have a friend in Montana who not only receives his full teacher pension, but also his pensions from BLM and Social Security.

I decided to become a teacher at age 40. I will never teach long enough to receive the pension equivalent of a thirty-year career. There are many answering the call to teach who bring the wisdom of a former career to the classroom. This is a benefit to the students and the educational system in general. Every career-changing teacher in Illinois is penalized for their decision by not being able to receive full social security if they also choose to take TRS benefits when they retire. We do not have the choice to continue to pay into the Social Security system. We are required to pay into TRS. Many teachers do not realize this situation until their first job. Many do not stay once they realize the long-term financial implications.

Why do legislators think we will become so rich? Firemen typically work 56 hours a week and then work a second job to support their families. Their wives usually juggle around their schedule to work a job as well. Teachers put in long hours (60 hours a week) during their nine and 1/2 months active teaching time and more hours retaining their certification and curriculum planning during their 2-month “vacation” time. Many teachers work another job in the summer to help make ends meet. People in both of these careers could be doing something that makes more money, but then who would save your houses when they burn? Who would teach your children?

You have chosen to punish us in a monetary fashion for dedicating our lives to the community. You, legislators, have a separate pension plan, at no cost to you just because you were elected to office. It is time to allow us to collect the full benefits of all of our pensions, just as you, the “servants of the people,” do.

Please note that the WEP and the GPO unfairly punish people who chose to become firefighter and teachers, in spite of the long term financial consequences. We cannot afford to continue penalizing teachers and firemen. With our fragile education system and even greater hazards in the fire service, our nations needs dedicated individuals who are appreciated for their efforts, not punished at the end of their careers.

Please also note that we are not asking for a "windfall;" we are only asking to receive what we have earned. My friend who stayed at home and never had a career will receive more social security benefits than me. That just doesn't make sense.

Please also note that the Public Servant Retirement Protection Act is an important beginning with the goal of repealing both the WEP and the GPO. This will impact many public employees by allowing them to receive what they have already earned.

I am asking you to get this bill out of committee so that it can be passed and enacted into law.

Then I ask you to work quickly to repeal both the GPO and the WEP. We need good teachers in our school system. We can make a difference by getting career-changers into the schools. Repealing the GPO and WEP will allow them to make that transition without penalizing them with long-term monetary consequences. Within the next two years, the country will need over 200,000 teachers to replace those who retire. If you *really* value education, you cannot fail to repeal GPO and WEP.

Thank you for your time and consideration.

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#### **Statement of Audrey Cournia, Sparks, Nevada**

I have been a teacher for 40 years and retired in 1997 from Washoe County with 20 years of service qualifying me for a pension from the state of NV which approximates 50% of my salary. In addition I have worked in other capacities earning more than the required 40 credits to qualify for social security. It was not a lot, but my \$300 a month was arbitrarily cut to \$150 a month. These work credits had nothing to do with my pension and I fail to see how it can be considered a windfall. It is as unfair as any legislation can be and it singles out public employees in a discriminatory fashion. I feel quite sure that public employees in the Congress are not subject to this same unfair treatment, or it would have been rectified long ago. Please pass HR 4391 as at least a first step in bringing justice to those Americans who have chosen public service and are being treated so poorly!

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#### **Statement of Paul A. Cyr, Greene, Maine**

Thank you for giving me this opportunity to write to you.

I am fifty-seven and a half years old and I work for the state of Maine Department of Transportation as a Highway Worker II. My job is driving truck—winter and summer—and when I'm not actually driving I am doing heavy physical work. I've worked for the state of Maine for approximately nine and a half years. The first three and a half years were as a Highway Worker I. The job was mainly flagging for eight to ten hours a day, and at forty-seven years old it wasn't easy standing on hot top all day or being out in 10 below zero weather. While doing this job I've had the driving public swear at me for holding them up for three minutes, or people going by and hollering at me to get a real job. There have also been numerous times when I was almost hit by cars and in some cases the drivers actually laughed about it. I took the insults and obscenities thinking I would just do what I had to and it would pay off in the long run—that when I retired I would have a pension from this job to go along with my social security.

Before I went to work for the state of Maine I was a sheet metal journeyman. I spent four years going to school at night to get my state license as a sheet metal worker. I worked for a copy while going to school and stayed with them for approximately twenty-five years. After that I worked for another metal shop for about four years until they filed for bankruptcy. And then it was another metal shop company for three years until I was let go for supposedly not being able to keep up with the younger people. These companies had very few benefits—no pension, no paid vacations, no bonuses, some paid holidays, and some had very limited health insurance. During all those years I installed duct work in dirty paper mills, in buildings with asbestos, and out in the cold and heat. I was paying into Social Security during this time and thought I would have a SS check when I retired. I couldn't put money into savings for retirement because it took all I had to be able to get by and pay the bills.

Then after working with no benefits or pension all those years and being out of work for two years, I landed a job with the state of Maine. After being a state work-

er for seven years I went to a retirement seminar and learned about the GPO and WEP. I was very upset by what I was told so I went to my Social Security office in Auburn, Maine. The person I spoke to told me I would loose about a third of my Social Security benefits because I worked for the state of Maine. To add insult to injury, she told me that I should not have taken this job, but should have found work somewhere else! But as I told her, I had been out of work for two years when I got the job with the state and figured that with their pension and Social Security I would be able to get by when I retired. But now the way I feel they might as well bury me in my work clothes, because I'll probably be working until I die.

From what I see the future looks pretty bad for me. With taxes going up all the time as well as the cost of living (gas, lights, insurance, etc.), I'll never have enough to make ends meet if I retire. Also, there has been a woman in my life and we can't get married because if we do and she draws any of my state of Maine pension after I die she will get penalized on her Social Security. And I won't do that to her. And why should she get penalized anyway?

In my opinion HR4391 is not a good bill for anyone and will cost more to implement than just repealing the GPO and WEP. Just give me the money that I earned and put into Social Security over the years—all of it, no more and no less. And do not penalize my fiance either. Please, please repeal these two unjust laws so that people like myself that have worked so hard for so many years (four of which were serving this country in the military) can end our working days with dignity and a sense of self worth and accomplishment.

Thank you.

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#### **Statement of Therese K. Desmarais, Rockport, Massachusetts**

My name is Therese K. Desmarais. I am the only child of first generation Polish parents, the first girl on both sides to go to college. I paid my own way through a state college in order to earn my Bachelor's Degree in Elementary Education, and then attended a private university to complete my Master's Degree in Education. I was married in 1965, and continued to teach full time, attend graduate school part time and summers, and had two children.

When the children were born, I was not allowed to be in the public schools after my seventh month of pregnancy. My husband was laid off from a computer-based company, and we moved to Massachusetts in 1970. Since I was 100 miles away from both sets of grandparents and extended family, I stayed at home to raise my two children until they were of school age.

I returned to the public schools on August 24, 1975 and worked for two public school systems until my retirement at age 60, on August 24, 2002.

During that period of time, my parents began having age related health issues. I cared for my mother until 1996, when I was forced to turn to a nursing home because of her declining health, and the beginning of my father's poor health due to colon cancer. My husband, Richard had a serious heart attack in 1997, and I had to continue working because he was self-employed and our medical insurance was available through my teaching job. Richard was self-employed for thirty years.

In that same year, I was diagnosed with the same breast cancer that my mother was recovering from in 1994. After two surgeries and radiation, I could no longer keep up with the two round trips a week to my hometown of Hartford, Connecticut to care for both parents. My father wished to remain in the house he had built for us fifty years earlier, and to be near the Polish Catholic Church and his Carpenter's Union, his only sources of peer support.

I incurred many bills while caring for them, as they were both receiving Social Security. My mother's Social Security went toward payment of the nursing home. I managed my father's household bills, taxes, insurance, food, fuel, and clothing costs for those five years. My mother died in February 2001. My father died on Father's Day of 2001.

Both of our children attended college. Our daughter did a mid-career change from finance to teaching, attending Harvard University School of Education in order to comply with certification in Massachusetts for Math and Science teachers. She taught for two years, and is presently on maternity leave with her second child.

Upon my retirement, we relocated to our daughter's place of residency in order to be close to grandchildren and family, and eventually help with childcare, as she will return to work as a Math/Science teacher in a public school.

My husband, Richard James Desmarais, died on February 14, 2004 after living in our retirement home for nine months. Our second grandchild, Talia Therese was

born February 5, 2004. Those nine days were filled with the most intense joy one could ever have imagined.

Our son and his new wife were visiting the new baby when Rich had his fatal heart attack here at home, and he died in my arms, with my son and new daughter-in-law at my side. I can never forget the sadness of the ensuing weeks and months. Richard's death caused his ninety-year-old mother to be hospitalized with grief, in shock, over losing her son.

I then began making all the arrangements for his funeral, tried to sort out his company which death with Information Systems, and our finances. It was at that time that I realized that I was not eligible for his social security widow's benefits because I was retired and receiving my teacher's pension from a private retirement board.

Because of Richard's history of heart disease, (his father died of a heart attack, his mother has had a triple bypass twice), he was only able to get minimal life insurance before his parents were diagnosed with heart disease. It was minimal coverage. Since he was self-employed, he not only paid the standard Social Security tax; he paid twice that amount.

Richard began working on tobacco in 1954 at the age of 14. He worked very hard, providing all the necessities to both his children, my parents, his mother who is still living. He contributed to the Social Security System for fifty years, expecting that it would help, along with my retirement to allow us to live in our own home, as independently as our health would allow.

The Government Pension Offset (GPO) and Windfall Elimination Provision (WEP) are causing me to lose my home, my independence, my simple but quality life style of caring for family and community members. I have been receiving the same social security projection notices that everyone else receives not knowing that I would lose them upon my husband's death, when I need it the most. I was not trying to cheap or double dip, as the writers of that bill projected. I need it to pay my mortgage, my taxes, and my car insurance, buy food, fuel, and clothing.

I urge you to consider the impact this is having on my family, especially my daughter, whom I never want to see in this position at any point in her lifetime.

I urge you to consider my situation when you meet to discuss this bill addressing the GPO and WEP. Richard paid into social security for fifty years so that he and his family would have financial security.

I do not have him to help me through this sad time. Please consider my situation, and know there may be many others who are depending on your support of this action.

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#### **Statement of Alfred E. Devereaux, Lenox, Massachusetts**

I would like to submit for testimony my personal distress caused by the GPO WEP.

I taught in the public schools of Massachusetts for 24 years and retired early. I currently receive \$609 per month in retirement benefits.

For the past 16 years I have been self employed and have contributed to Social Security.

I was surprised to find out just three years ago that I would only be eligible for a portion of my Social Security.

I had been counting on the full amount that was revealed in the statements that I was receiving from the Social Security Administration.

I was assuming at the age of 65 I would be able to get by on the combination of my Social Security, my wife's Social Security and my small teacher's pension.

Unless this law is overturned I do not see how I can get by unless I continue to work full time.

It is not fair to have to pay in to the system and not receive the benefits that are accorded to other people that pay the same and have not worked as a public servant.

I realized going into teaching that the rewards were not necessarily monetary, however, I didn't realize going in that I would be penalized further.

Please repeal this law and allow our teachers, police, firemen, and other public servants in Massachusetts that work a second job to be fairly treated.

Thanks

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**Statement of Katie DeSotell, Aurora, Illinois**

I am writing in regard to the Social Security issues facing me and many other Americans. I am very proud of my work as a teacher and I feel that I have given a great deal of myself serving my community as a teacher.

Raised in a middle class neighborhood, I worked to put myself through college. While my parents helped with the cost of my education, I worked part time during the school year as well as the summer to put myself through school. During my beginning years as a teacher it was necessary for me to work a second job to meet my financial obligations.

During high school, college and for part of my teaching career, I contributed to Social Security. I do not feel my contribution to the Social Security funds is any different than anyone else's contribution. I do not feel that I should be penalized for serving my community as a teacher while working a second job.

Please allow me and other public servants the opportunity to obtain our fair share when we reach retirement. I have paid into Social Security and should be allowed to collect upon retirement from the teaching profession.

Thank you very much for the opportunity to share my thoughts.

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Foxboro, Massachusetts 02035  
July 20, 2004

Dear Hearing Committee Member,

Please address the unfair impact of the Windfall Elimination Program (WEP) which has caused many teachers like me, who left industry to work in our public schools, to lose the benefits for which they have worked long and hard.

In 1986 I left a lucrative position as a Systems Analyst working for a privately held firm (Nyman Manufacturing, RI) to work as a high school teacher in the Bridgewater-Raynham Regional School System. I was 39 years old and had dutifully paid social security during my years in industry. I have since contributed to the Massachusetts Retirement System and my current rate of contribution is 11% of salary. Massachusetts teachers do not contribute to Social Security. I will be 62 in five years but will only have 23 years in the teacher retirement system by that time. This means I can only draw 50.6% of the average of my last three years income at that time[1] Current calculations show that I would only receive about 1/3 of the social security payment I would receive otherwise (about \$210 in today's dollars) according to the WEP calculator available at the [socialsecurity.gov](http://socialsecurity.gov) website.

Had I never contributed a cent to Social Security but rather earned all my income teaching, I would be able to retire at 80% instead of 50.7% at age 62. Conversely, had all my earnings been under the social security system, my monthly contribution would be at the rate of 6.2% and not 11%. To compare apples and apples this means that at age 62 I would have three sources of income:

- a. Social Security at over \$1500/mo plus
- b. interest from retirement savings at the differential between the SS contribution rate of 6.2% and the MTRB contribution rate of 11% or an additional \$500/mo plus
- c. the professional retirement plan with over 30 years vested at a private company (like Nyman Manufacturing above) at about 80% of my last several years.

This is the payback for leaving industry to work with our nation's children! Please do right by our nation's teachers by not penalizing them for responding to a noble calling.

Sincerely,

Jeanne Dyer

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[1] Reference: Estimating Your Retirement Balance an MTRB publication

Cotuit, Massachusetts 02635  
*July 22, 2004*

Social Security Subcommittee  
 Committee on Ways and Means  
 United States House of Representatives  
 1102 Longworth House Office Building  
 Washington, D.C. 20515

Dear Committee Members,

I am writing to outline how the Windfall Elimination Provision (WEP) unfairly penalizes those who have chosen or desire to enter public service and how it impacts our nation's schools.

In 1975, I obtained my Bachelor's of Science in Mathematics. And, although I had many options available to me, I decided to become an educator. I truly felt that in a classroom, I could make a difference. For six years, I taught mathematics at Dedham Junior High School in Dedham, MA. During this time period I obtained graduate degrees in Special Education and School Administration.

In 1981, I, like many of my peers, was faced with the impact that budget cuts and declining enrollment had on many aspects of public education. At that point, I decided to explore some of the other options that were available to me.

For the next fourteen years, I worked in a variety of technology positions. These jobs ranged from computer programmer to director of information technology for a major manufacturer. In addition, I continued my studies at the graduate level and obtained my M.B.A.

From a financial standpoint, my situation changed drastically during this time period. Within months of leaving the classroom, my salary doubled. The annual growth in my earnings after that point far exceeded that which I would ever see in public service. And, I must admit that for awhile I found myself questioning why I ever considered spending those first six years as a teacher.

On a personal level, however, I knew why I spent those six years in a classroom and I yearned to be back there. It was because I could make a difference. As a teacher, I could "touch the future". Due to this, I returned to education in 1995.

My desire to make a difference has not been without significant financial hardship. The Windfall Elimination Provision has significantly reduced the Social Security benefits that I earned and would have received if I was not committed to returning to the classroom where I knew my educational and business experience would make a difference.

Our nation's schools are lacking qualified teachers of mathematics and science. There is a need to actively recruit educators from the private sector. The hardships associated with the Windfall Elimination Provision serves as a barrier to improving public education.

The Public Servant Retirement Protection Act offers an important first step toward improving our nation's educational system. It will make a real difference for many considering the possibility of transitioning from business and industry in order to become public school teachers.

I urge the Committee to move this important bill quickly to final passage and enactment into law, and I urge Congress to continue to work toward the full repeal of the Windfall Elimination Provision.

Sincerely,

Paula Emerson Fay

#### **Statement of Patricia Wolfe, Federally Employed Women**

FEW is a private, non-profit organization founded in 1968 after Executive Order 11375—that added sex discrimination to the list of prohibited discrimination in the federal government—was issued. FEW has grown into an international organization serving the one million federally employed women (both civilian and military). FEW is the only organization dedicated solely to eliminating sex discrimination in the federal workplace, and the only organization that monitors legislation particularly of concern to women employed in the federal government.

#### **INTRODUCTION**

Federally Employed Women (FEW) very much appreciates the opportunity to submit this written statement on HR 4391, the "Public Servant Retirement Protection

Act.” On behalf of the one million women employed in the federal government and military, we thank Chairman Clay Shaw and the other legislators serving on this Subcommittee for conducting this important hearing on the Windfall Elimination Provision (WEP). We call on Congress to completely repeal this provision, as well as the Government Pension Offset (GPO) which both unfairly impact federal workers, especially women.

#### **BACKGROUND**

FEW is a private, non-profit organization founded in 1968 after Executive Order 11375—that added sex discrimination to the other forms of discrimination prohibited in the federal government—was issued. The early organizers of FEW realized that the government could dismantle the Federal Women’s Program (FWP) that was established after E.O. 11375 was issued within most Federal agencies. They wanted to ensure that there would always be an organization dedicated to promoting equality for women and addressing concerns of women in the Federal workforce.

As a private organization, FEW works as a constructive pressure group to improve the status of women employed by the Federal government. This includes contact with Congress to encourage progressive legislation. FEW national officers also meet with agency officials at all levels to demonstrate support of the FWP, encourage officials to support the program and to obtain insight on the effectiveness of the FWP at agency and local levels. FEW has been called on in past years to testify before Congress on sexual discrimination, Senior Executive Service (SES) diversity and sexual harassment cases.

For 36 years, Federally Employed Women has been working to end sexual discrimination and enhance opportunities for the advancement of women in government. Every day, nationwide, FEW members work together to bring about an awareness of the issues facing women throughout the federal government and achieve positive reforms and equality for women in the federal workplace. In addition, FEW members support all efforts within the government to improve operations and efficiencies in the federal workforce.

#### **THE PROVISIONS**

As the Subcommittee members are already aware, the Windfall Elimination Provision (WEP) greatly reduces the Social Security benefits of a retired federal worker who paid into Social Security and also receives a government pension. Private sector retirees receive monthly Social Security checks equal to 90% of their first \$561 in average monthly career earnings, plus 32% of monthly earnings up to \$3,381 and 15% of earnings above \$3,381. Federal retirees however are only allowed to receive 40% of the first \$561 in career monthly earnings, a penalty of \$280.50 per month simply for working in the federal government.

#### **GOVERNMENT PENSION OFFSET**

Of equal importance to FEW members is the Government Pension Offset (GPO). This provision was enacted in 1977 to prevent government retirees from collecting both a government annuity based on their own work and Social Security benefits based on their spouse’s. This law decreases by two-thirds whatever spousal social security benefits for which a retired government worker might be eligible.

The GPO, in effect, prohibits federal retirees from collecting both a full Civil Service Retirement System (CSRS) annuity based upon his or her own government employment and full Social Security benefits based upon a spouse’s employment. The victims of GPO are largely elderly women who are both CSRS annuitants and widows of private sector employees. Had these women spent their careers anywhere but the federal government, they would be entitled to full, unreduced Social Security spousal or survivor benefits. But because they earned their pensions through federal service under CSRS, their Social Security benefit is “offset” by their own earned retirement benefits.

The National Association of Retired Federal Employees (NARFE) has estimated that approximately 635,000 beneficiaries are receiving less benefits than they deserve due to the provisions of the WEP. This number continues to grow by 60,000 annually. The GPO penalizes about 335,000 beneficiaries, and this number rises by about 15,000 per year. Of those affected by the GPO, 73% are women, and this offset reduces benefits by more than \$3,600 a year. This is simply unfair and it is time to make it right.

## OUR VIEWS

FEW supports the repeal of both of these unfair provisions. Both the GPO and WEP lower the retirement income of federal employees by altering the Social Security benefit formula for certain groups. What is particularly egregious is that spousal and retirement benefits are reduced for Americans simply because they worked for the federal government. The end result is to dissuade more potential federal workers from joining the civilian workforce.

Additionally, both affect women much more harshly than men despite the fact that older women are one of the fastest growing poverty populations in our nation today. Plus, women are more likely to spend time out of the workforce (about 12 years) to tend to family care giving responsibilities. That is time she is not earning a pension, vesting in a pension or contributing to Social Security. This absence from the paid workforce translates into inadequate retirement income and an increased financial dependency on their spouses.

Our views have previously been made part of the public record through written testimony submitted to the Senate Governmental Affairs Committee for its September, 24, 2003, hearing, as well as the issuance of numerous Press Releases sent out over the last year.

## FEW'S GRASSROOTS EFFORTS

FEW, on August 1, 2003 asked its members and other interested parties to send letters to their legislators urging them to co-sponsor bills in both Chambers that would repeal these provisions. To date, over 2,500 letters were sent to lawmakers representing 42 states. And FEW is just one organization. No doubt, hundreds of thousands of letters from a whole host of multi-faceted organizations have been sent to Congress urging repeal.

During these times of an aging workforce, we need to do what is right for federal retirees. Americans who choose to serve their country by working for the federal government should not then be penalized during their retirement years. These provisions need to be repealed as soon as possible.

### HR 4391

Although the bill being discussed at this hearing is a good attempt and first step at rectifying the situation for federal retirees, FEW harbors some concerns about the legislation's language:

***No GPO Included:***

As mentioned above, FEW is firmly advocating the repeal of **both** the WEP and GPO. The latter has an even greater negative impact on some of our nation's most hard-hit Social Security recipients—widows and widowers, and lower-income women. Fixing the WEP while leaving the GPO in place will not help the majority of retired federally employed women who are being punished monetarily simply for working in the federal government. They need some relief now!

***Social Security Records:***

It is our understanding that this bill would compute a recipient's benefits based on the individual's entire work history and earnings. However, it has been reported by the Deputy Commissioner of the Social Security Administration (SSA) that SSA only has records of non-covered earnings beginning in 1978. Therefore, those beneficiaries who earned non-covered wages after 1950 would be negatively impacted under the formula included in this legislation. This problem needs to be fixed.

***"Hold Harmless" Clause:***

Contained in this bill is a "hold harmless" clause that states that earners would receive the higher of the two benefit calculations (current method and new method outlined in this bill). We want to express our firm belief that no individual should be harmed by this bill, and we ask the Subcommittee to further investigate the proposed formula by using many different scenarios to ensure that it is equitable. We also ask that a process be detailed in the bill on how recipients can appeal their Social Security payments should they be penalized through the use of the new formula.

Again, we very much appreciate the Subcommittee and Chairman's interest in this issue and all the support you have given federal workers in the past. I, and the thousands of other FEW members, am proud of the work we do for the federal government, and simply want to receive those retirement benefits to which we are entitled.

We look forward to working with the Subcommittee members and their staffs to repeal these unfair provisions.

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#### **Statement of Wayne Flick, Grand Junction, Colorado**

I taught in the public schools of Colorado for 31 years. I started teaching at age 30 after about 10 years working for several companies and spending time in the Army. I paid social security all those years, even the years in college. After receiving my teaching credentials, and getting my first teaching position, I realized how little teachers make. The first summer I got a job, and every summer following I got "summer jobs". Summer jobs were easy to get in Leadville where I taught the first five years. When I moved to Grand Junction, summer jobs weren't easy to find. I probably made about \$100,000 total in today's dollars in non-teaching jobs. As a retiree, I won't see but a small portion, if any, of the amount I would have, had I not gone into teaching.

I understand why I don't get any SS for the money I earned teaching, but I can't understand why I can't get SS for what I earned outside of teaching. Had I known I was going to take such a hit, I probably would not have become a teacher.

The Public Servant Retirement Protection Act offers a first step toward the ultimate goal of repealing both the WEP and the GPO. It will make a real difference for me and other people in my shoes since I will receive increased Social Security benefits as a result.

Both the WEP and the GPO unfairly penalize public servants which severely limits its communities ability to attract quality people to fill positions in education, fire-fighting, and public safety.

I urge the Committee to pass this bill through congress and enact it into law, and I urge Congress to continue to work toward full repeal of both the GPO and the WEP.

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#### **Statement of Gerald R. Garrett, Moses Lake, Washington**

I am writing to urge the Committee to move quickly in its deliberations on the Public Servant Retirement Protection Act as a first step toward full repeal of the WEP and GPO. I am one of the tens of thousands of retired Americans who are unfairly penalized by the WEP, thus denied full benefits of Social Security after making contributions to the system through full—and part-time jobs for fifty years. Since retirement I continue to contribute to Social Security through occasional and part-time jobs with no possibility of enhancing my benefits because of the WEP.

In my opinion, both the WEP and GPO are unfair offsets that deny public servants who have worked in non-Social Security jobs the benefits that they have earned through contributions made in prior employment and in part-time or second jobs. Nothing about the careers of these hard-working public servants smacks of a windfall. Instead, these are benefits that have been earned through many years of social security contributions. In my case, I have made contributions in some years at the maximum level in every year of my life since I was a teenager. This includes some 32 years as a professor and administrator at the University of Massachusetts Boston and several years as a university professor providing educational services to the U.S. Forces in Europe, Asia, and at home. Like many others I was counting on Social Security to help protect me from inflationary costs that are often financial obstacles for retired Americans. Since I am subject to the WEP, my benefits are reduced to only a few hundred dollars each month.

This nation should not take advantage of dedicated public servants, such as educators, police, firefighters, and public administrators, by denying them benefits that they have earned. Thus, I urge the Committee to move this bill quickly to final passage and enactment into law, and I also hope that Congress will continue to work toward a full repeal of both the WEP and GPO.

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**Statement of Ken Hamdorf, Seal Beach, California**

Recently I retired after forty years of Teaching in California school systems. I also worked at numerous jobs part and full time to supplement my teaching income. These jobs all contributed into my social security account. In addition I served during the Viet Nam war for two years in the U.S. Army, also subject social security. When I turned 65 I applied for Medicare. Which I received because I had the necessary Quarters. I was also informed that because I had a teacher's retirement I would not be eligible for my full entitlement (\$950), instead I would be reduced to approx. \$243. Someone who works outside of the public employees system can earn MILLIONS and still be eligible for full social security. Hardly seems just or fair!!

Please repeal the W.E.P.

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**Statement of Wayne V. Hatford, Palm Springs, California**

There are several bills now before your subcommittee that deal with proposed changes in the very unfair WEP provisions of current Social Security laws: The Total Repeal Bill plus HR 1321 & HR 4391.

Here is an example of how that unfairness adversely affects someone's life: I am a retired public school teacher who taught in the Brookline, Massachusetts public schools for a total of 24 years; my current gross teacher's pension from Massachusetts is approximately \$12,600 per year with net payments of \$878 per month; I have worked in other part-time and full-time jobs and paid into SS for a total 30 years which will provide me with a social security benefit; however, when I am eligible for Social Security in September, 2004 at age 62, under current law, and just for the fact of having been a "public" employee in MA, I understand that my earned social security benefit, which should be \$444 per month, will be cut in half to \$222 per month due to the WEP law.

As you can see, my retirement income level is already low without facing a 50% reduction in earned social security benefits. And, at my income level, the notion of "Retirement" seems very elusive; Losing \$222 a month is tough.

The current WEP Law is unfair and discriminatory towards people who chose to be of service in society and who worked in the "wrong" states—teachers plus many other public sector employees—while those with any size private pension collect their full earned social security benefits—Another point: I was never made aware of this law when I was a teacher in MA; Neither the SS Administration nor the school districts in non SS public employees states inform teachers of this law *and they should*; I would have loved to pay into Social Security while working in the Massachusetts Public Schools but I had no choice in the matter.

From what I have read, a large number of Representatives and Senators are interested in either eliminating the WEP and GPO provisions or providing relief in the form of exemptions or a recalibration of how SS benefits are calculated. Please give everyone in Congress a chance to discuss these bills and to vote on these ideas. Please help this to happen in the 108th Congress!!

My personal opinion is that both the WEP and GPO should be completely repealed; however, if in your opinion, an exemption style bill is much more likely to pass in this Congress, please see that HR 1321, (which exempts 24K annually of combined public pension and SS benefits from the WEP) or HR 4391 get to the floor for consideration and vote. These bills represent strong steps in the right direction!!

HR 4391 provides some relief to the WEP; in my specific situation, I calculate that I would regain \$50 to \$60 per month of the \$222 per month that I am losing due to the current WEP Law; that is an improvement and I support this proposed law as it does go in the right direction. However, I have 2 concerns: the calculations required for this law are complicated (because each person's tax returns will have to be examined for an up to 40+ yrs time period) and also this law may be very costly for the SS Admin. due to the personnel required to do the calculations work. Why not just exempt a certain amount of pension from being subject to the WEP and/or do a phase in of the WEP on higher amount pensions???? That would be so much easier for the SS Administration to calculate and easily accomplish.

Thank you so much in advance for your consideration of my comments and your support of either Hr 4391 or HR 1321; please work toward a total repeal of the WEP—Please allow these bills on the floor ASAP!!!

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**Statement of James C. Hayes, Las Vegas, Nevada**

The WEP and the GPO unfairly penalize those who have chosen to enter public service, often at great financial sacrifice. Our nation cannot afford to penalize educators, police, firefighters, and others who have dedicated themselves to serving their communities and their country. The Public Servant Retirement Protection Act offers an important first step toward the ultimate goal of repealing both the WEP and the GPO. It will make a real difference for many public employees who will receive increased Social Security benefits as a result. I urge the Committee to move this important bill quickly to final passage and enactment into law, and we urge Congress to continue to work toward full repeal of both the GPO and the WEP.

I am a teacher. I have been teaching mathematics in Clark County, Nevada for 29 years. Teachers are known to be underpaid professionals. I have had to financially supplement by teaching job by working for DOD and DOE. I have also done work for private industry. This was the only way I could remain a teacher yet afford the luxury of buying a home and new cars, sending my sons to college and living a life that is equal to the advanced degrees I have earned. In all these supplementary jobs, I paid Social Security taxes, making me eligible for benefits. I DESERVE to receive full Social Security benefits, just like every other US citizen that pays their taxes. To say otherwise is to say that teachers and others who have jobs that offer retirement benefits but still can qualify for Social Security benefits are not equal citizens.

Since everyone knows that teachers are unpaid. Since most teachers work more than one job to maintain a higher standard of living and in doing so pay taxes which earn them Social Security benefits, PLEASE DO THE RIGHT THING and correct this unjust situation to the people that dedicate themselves to serving the citizens of our nation.

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**Statement of Karen Hedden, Wells, Nevada**

I would like to be on record as opposed to the WEP and GPO. As a public school educator, I have worked part-time, minimum wage jobs. I did this before, during and after college. After obtaining employment as a teacher, I still needed a part-time minimum wage job at night and over the summer in order to pay off my student loans and make ends meet. I am a single-parent. Those small jobs meant a lot to my family. I had Social Security taxes deducted from my paychecks, now you are telling me because I chose a higher calling to work as a public servant, I won't be able to claim those benefits? How fair is that?? Firefighters, police officers, and the military are also being penalized. We all put our lives on the line for the public and you are telling us we are not worth supporting when we retire! If this doesn't change, a lot of public servants are not going to be working in the professions they chose for the very reason of being penalized at the end of their careers. I wish to put in my two-cents worth and ask that these bills be repealed.

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**Statement of James Herzberg, Katy, Texas**

**PUBLIC SERVANT RETIREMENT PROTECTION ACT**

This message is in support of the Public Servant Retirement Protection Act. This legislation offers an important first step toward the ultimate goal of repealing both the Windfall Elimination Provision and the Government Pension Offset. These provisions unfairly penalize people who have chosen to enter public service. We are not asking for a windfall, only to receive benefits we earned and which were promised to us.

In my own case I entered the teaching profession after several years of work in the private sector and with government. I and my employers paid into Social Security for thirty-four years. As some of that work was part time and temporary when I was in school, I do not have enough years of substantial payments to avoid the Windfall Elimination Provision. As a result, even though I have more than met the forty quarters requirement and had several years in which I paid the maximum contribution into Social Security, I will see my benefits reduced to a *third* of what I had expected to receive. As is well known, teachers do not make a great deal of money. Saving and investing enough to cover this offset will be difficult. Having come somewhat late in life to this profession, neither can I accumulate enough se-

niority in the teacher retirement system to receive adequate support in my old age. As the law now stands, I will have to work several years beyond conventional retirement age. I will probably have to work part-time, even as a retiree.

Besides being unfair, the present law discourages many qualified people from entering the profession. Had I known of this penalty, I would not have made the move myself. People who have years of experience and great expertise in many areas, which could greatly enrich the classroom, will find something else to do. With the chronic teacher shortage, our nation cannot afford to do this. The present law is unfair and punitive. I urge its repeal, or at least its modification.

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#### **Statement of Robert A. Hudson, Colorado Springs, Colorado**

Even though I currently am employed by the Social Security Administration, this statement is not a voice of the agency but instead an individual citizens input. I am not representing the agency what so ever in this regard.

I do however have an advantage in that I understand the WEP and GPO to a great extent. I must voice my concern regarding the solubility of the trust funds by allowing fellow tax payers to receive full Social Security benefits even though for years they had paid into another retirement. Since Social Security benefits are a pay as you go plan' then the persons not involved with paying as you go' for a number of years, if not an entire career should be offset under the Windfall Elimination Provision. It is only fair to those of us that have and will continue. There is no case to be made that these individuals are going to be disadvantaged. The max reduction this year is \$306.00. Even though a person may be reduced by this amount, he or she will certainly still get more from the program than he or she paid in. The idea these individuals are 'disadvantaged' is pure nonsense. Also, the system is designed to provide those that have contributed additional years by further lessening the reduction factor. Please do not give those that have not participated any more than the current law allows. It is fair and equitable the way it is written.

As far as GPO goes I must echo the same comments. The Government Pension Offset is truly designed to stop those that would be the quintessential double dippers into a system that they contributed naught. Please allow the current law to stay the way it is. This is an equitable system and gives those that paid exactly what they are due. Thank you for your time.

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#### **Statement of Linda B. Jacobson, Northbrook, Illinois**

I firmly believe that not permitting public school teachers to receive their teacher's pension AND social security benefits (if they qualify for such benefits) is discriminatory. In my personal situation, it has been a hardship, and a loss of income which I had counted on in my retirement years, not knowing initially that it would be kept from me by those very people that I elected. I began working and paying into Social Security when I was twelve years old. I continued working and earning Social Security benefits throughout my early years, even while I was attending college. Later, when I was teaching, I held a second job to earn Social Security benefits. That was the only way I could insure my retirement, since I did not make enough money to save significant amounts of money. When my children were eight years old and eleven years old, my husband became terminally ill, and I had to support my family alone. During this time, I paid into Social Security also, hopefully planning for my future needs, since it was clear that my husband would not be around to take care of us. As a young widow, I did receive Social Security benefits for my two dependent children until they were sixteen years of age (I understand that now, children get benefits until they are eighteen years old), but was denied Widow's benefits from Social Security, because I allegedly "earned too much because I was a teacher." It did not matter that I had paid for many years into Social Security, or that my late husband had paid the maximum into Social Security during his work lifetime—I was denied benefits, except for the \$255.00 I received as his death benefit. For the next fifteen years, following his death, I worked several jobs, sometimes as many as four jobs at a time, working seven days a week, including my full-time job in education, to save money for my children's college education. My husband was ill for four years prior to his death, and any money we had put aside for the children was used to help pay for his bone marrow transplant and other medical expenses. I supported our family during this time. I was a responsible cit-

izen. I put my children through college. I paid off more than one hundred thousand dollars in college loans for them. When my educational career in the public school system approached twenty-nine years, I prepared to retire. The public elementary school districts where I had worked reported all my years of service to TRS (Teacher's Retirement System of the State of Illinois), so getting my credits from them was not a problem.

Next, I contacted the University of Illinois, Illinois State University, Northern Illinois University, Northeastern Illinois University and Governor's State University for my work "credits", because I was told that if I paid into "SURS", the State University Retirement System, now, for the years I had taught at these universities, they would contribute to my retirement income. There was reciprocity with TRS, I learned. I was pleased, because there was no SURS credit available for part-time faculty when I taught at these graduate schools, so I paid into Social Security only at that time.

It is significant to note that despite the fact that I worked over thirteen years in the state university system as a lecturer and adjunct professor, these state schools could not locate *any* employment records for me. They don't keep them that long, I was told. And I had paid into Social Security during those assignments! I taught for ten years and was a Program Director in the Graduate School of Education at Roosevelt University. In Chicago. I paid into Social Security for those years also, but Roosevelt. Is not, of course, a member of SURS.

Next, I called and wrote the Social Security Administration to seek my old employment records. They did have a record of my participating in Social Security between 1981 and 1994 (My years at the universities), but they had NO records of *where* the Social Security contribution had come from, so I still could not document my service at the universities! Next, I called the Internal Revenue Service in Kansas City. Surely they would have a record of whom I had either 1099s or W2 forms from during those years—they, too, informed me that they do not keep records that long.

The end result was that I lost thirteen years of retirement credit when I retired from TRS. I received only less than two years credit from SURS, and my income from them is only one hundred four (\$104.00) per month as a result. For twelve years of service in the SURS system!!!! Had I received the credit I was entitled to, I would have retired (as I planned) with full credit and full retirement benefits (36 years of service), but instead, got only twenty-nine years and a reduced retirement benefit. Also, even though I retired at fifty-eight due to health reasons, I had to pay an eighteen thousand dollar penalty to TRS on the day I retired, because I was retiring before the age of sixty, and wanted to get my full benefit for twenty-nine years.

Also, from 1979 through 1998 I worked for the Illinois State Board of Education as a Level I Due Process Hearing Officer in matters related to schools and special education for the disabled (one of our three children was profoundly disabled, and I had become somewhat of an educational expert in this area of the law. I attended The John Marshall Law School for three years on a full Academic Dean's Scholarship, but was unable to ever finish my last semester because my husband was so ill). There was no retirement benefit available for these nineteen years of service.

After these experiences, I hope you can imagine my upset and disappointment to learn that I would not be entitled to Social Security retirement benefits at sixty-two years of age. Despite the fact that my deceased husband paid the maximum into Social Security for as long as he worked, and despite the fact that I paid into Social Security for many, many years, I will be denied benefits. How could that possibly be fair? How could that possibly be equitable? How could that possibly be right?

We are the people who taught your children and prepared them for life in our society. This is not the thanks I expected. Ironically, The Social Security Administration disappointed me again.

After more than eight years I remarried. I was told that because I was not yet sixty at the time of my remarriage (I was only fifty), I would be *permanently* denied Widow's Benefits from my first husband when I turned sixty! It didn't matter that we were married for more than twenty-two years. It didn't matter that I was denied Widow's Benefits when I became a widow, because I worked and earned more than three hundred dollars a month!! (How can the Social Security Administration arbitrarily decide, with the approval of legislators who don't seem to care or are unrealistic about life in the real world, that one who is widowed at forty-two years of age can not re-marry until they are sixty without losing their benefits???) To add insult to the injury, I was also informed that I can not get Social Security Benefits from my second husband either, until we are married for ten years! Then, the final blow! I wouldn't get benefits from either of my husband(s) or from my own Social Security paid in anyway, because my state, the State of Illinois, does not permit people re-

ceiving Teacher's Retirement Benefits to also receive Social Security, if the TRS benefits exceed the amount I would have received from Social Security. I could not believe that this could be true!

I worked my whole life. I paid my taxes. I paid into Social Security. I raised my children alone. I put my children through college alone. I paid for their weddings alone. Now, it is time for me to retire, and I find I will be denied benefits I worked hard and long to get!

It is my understanding, and has always been my understanding, that there is a pension one gets from working in the District Attorney's Office. Then, if they become legislators, they can get a pension from the House of Representatives. Then, if they go onto the Senate, they can get a third pension from the Senate. If they go onto higher office, they can get a fourth pension. Presidents have received as many as five pensions!!! And I am only entitled to one?? Where is the logic??? Where is the concern for your constituency??? Where is the fairness??? I am only asking for what should be mine. I worked for it! I paid for it! I earned it. I do not get a refund of monies which I paid in from the Social Security Administration, if they do not pay me my benefits or the benefits worked hard for by my husband(s).

I hope that you will consider this letter very seriously. I hope that you will attempt to put yourself in my shoes, so to speak, to see how truly unfair and inappropriate the current law is for teachers and other service personnel. I hope that you will not disappoint me, and that I will eventually receive the Social Security Benefits for which I worked, and which I counted on in my retirement years. To do otherwise is to discriminate against me and all others negatively affected by this unjust law.

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#### **Statement of Sheri Jones, San Antonio, Texas**

My name is Sheri Jones. I have been a teacher in the San Antonio Independent School District for the last 20 years. As an employee of this school district I have paid into Social Security and into the Texas Teacher Retirement System for all of those 20 years. I was not given a choice. I had to pay into both because that is the way the school district is set up.

Public Servant Retirement Protection Act is very necessary for me. Without a change in the way public servants are allowed to receive their social security benefits I will loose much of what I was told I had to participate in. I will loose benefits that the government of our Nation and the government of my state have *required* me to pay into. I am being negatively impacted and it is all because the two governments can't cooperate.

This reform is very necessary.

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#### **Statement of Barbara C. Joyce, Sparks, Nevada**

Please respect public service and repeal the Social Security Offset. I am one of the many people affected by this unfair offset. I began working part-time jobs in the state of New Jersey at the age of fourteen. I went on to teach in the public schools of New Jersey and New York for over ten years. I earned social security benefits during this time.

Currently I am teaching in the state of Nevada and no longer earn Social Security benefits because I am now part of the Public Employees Retirement System. I am beginning my twenty-first year teaching in NV.

I feel that I am being penalized by the Social Security Offset for choosing to continue my teaching career here. It is not unreasonable to expect to receive the benefits I have previously earned, as well as the retirement I am now building. This is not a "windfall." This is simply what is right.

Please move the "Public Servant Retirement Protection Act" to final passage quickly and enact it into law. I ask you to please continue to work to fully repeal both the GPO and WEP.

Thank you so much for your consideration.

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**Statement of D.R. Joyner, Lufkin, Texas**

Eight months ago, I became a teacher; however, I worked at the Lufkin paper mill for twenty-five years and also at a motor home plant before entering the teaching profession. The mill had five different owners during my employment. I toiled in the paper machine department, made cores, worked in the quality control lab, and endured humid buildings with 150 degree summer temperatures until I could go outside on a break where it felt cooler. I was re-assigned three times during a six month period of downsizing.

Following several years of multiple-week shut-downs and downsizing, rumors began to circulate that the Canadian owners would permanently close the mill. Workers with over twenty years experience believed they were immune from the downsizing and doubted that the mill would ever shut its doors. Sons, fathers, and grandfathers had worked at that mill for sixty years. The Canadian government subsidizes its paper mills. When it was cheaper for a Canadian paper mill to transport its paper by boat and truck than the Lufkin mill could transport paper to their next door neighbor via the railroad tracks, the mill lost even its neighbor's business.

I saw the handwriting on the wall and prepared for an "after paper mill" life. There were numerous newspaper stories about the Texas teacher shortage. I decided to reach my goal of earning a degree, started as an eighteen-year old in the 1970's, even though a teaching salary amounted to nearly a 50% pay cut from my paper mill salary. I took seventeen college hours each semester while working forty or more hours per week, mostly on the graveyard shift. I accumulated \$32,000 in student loans while completing requirements for teacher certification.

I wanted my sons' lives to be better than mine. Their college education was very important to me even though our finances were strained. My wife is a first grade teacher and her salary hasn't increased since her twentieth year of service. Our insurance costs are also much higher through TRS Active-Care than they were through Cigna. We drastically altered our way of life and budget. Watching our debt increase was terrifying. Watching my sons personally assume student loan debt was worse.

During the summer of 2003, I applied to every school district in the area, but they chose certified teachers over those completing post-baccalaureate certification. In September, a small school district planned to move one of its current teachers to a reading specialist position through the "No Child Left Behind Act". I was hired to teach fourth grade, pending grant funding. Unfortunately, funding for the bill was gutted on September 16 and TEA cancelled all grants. In November, the same district located alternate funds and hired me as an elementary science teacher for one year. Although I was heavily in debt and earned a diminished salary, I made a difference in children's lives as a public servant and had a future in teaching.

There was one problem. When officials asked people to change careers and become teachers, they never mentioned that in doing so, one would be sacrificing their social security benefits earned over a lifetime. This spring, I was advised to quit teaching before becoming vested at five years to prevent the loss of the majority of my social security. My wife and I searched for school districts that still withdraw social security from teachers' paychecks to determine where we needed to move. Our home is here. Our friends are here. Our jobs are here. But we had to repay school loans and still save for retirement following our years of public service. Once shut-downs at the paper mill began, our budget hadn't included retirement plan allocations.

At my age, I am unlikely to reach the twenty year marker as a teacher, so my teacher pension will be at a very reduced benefit and my social security will be WEP'ed. I could withdraw my TRS deposits instead of becoming vested at five years, but that would prevent me from buying TRS medical insurance during retirement. I could be covered with spousal insurance through my wife, but that is much more expensive.

The Texas teacher shortage is more acute than ever following a mass exodus of veteran teachers this year. Many teachers retired early in order to take advantage of the government pension offset loophole, which was eliminated on July 1 of this year. Our entire nation needs science teachers. Please repeal the WEP and replace it with a fair benefit calculation so that those who entered public service after working for years in the private sector will not lose the retirement they earned. I ask you to reward those that chose to share their real world skills with America's children rather than punish them.

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**Statement of James H. Keegan, Jr., Belmont, Massachusetts**

The WEP and GPO unfairly penalize people who have chosen public service. As someone who has paid into Social Security for over 42 years (both full-time and part-time), I know. When I begin to receive SS payments this fall, I will lose about \$300 per month in benefits. I spent nearly 35 years in Massachusetts public education. During most of those years, I found it necessary to work second jobs just to satisfy basic family needs. I can't understand why those of us who chose public service are being singled out through the current WEP to receive a reduced benefit. We earned the full amount and planned on receiving it at retirement. The Public Service Retirement Protection Act is an important first step toward the ultimate goal of fully repealing both the WEP and the GPO. I respectfully request the committee to move quickly to final passage and enactment into law. Thank you. James H. Keegan Jr.

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Elko, Nevada 89801  
July 18, 2004

Committee on Ways and Means  
1102 LHOB  
Washington, DC 20515

Dear Committee:

The "Windfall Elimination Provision" is discriminatory and should be eliminated!

From 1976 to 1998 I worked in the private sector as an account representative, sales manager etc. During this time, approximately \$40,000.00 of privately paid Social Security taxes were taken directly out of my earnings. My deductions should be used for my retirement when I turn 66 years of age. I worked long and hard to maintain this employment, sacrificing my enjoyment with my family, friends, and educational endeavors as well.

In 1998 I was able to sell some assets and go back to school to become a "public school teacher". You know those people that help train the next generation of "tax payers", the students we all so desperately need to keep filling the coffers of Social Security! After 5 years of employment I am now vested in the Public Employee Retirement System of Nevada. My district (taxpayers) pays for a retirement contribution that goes into a fund for my retirement if I stay in the PERS system. My retirement account with the state of Nevada is paid by the taxpayers of Nevada, not the Federal Government. PERS is a totally separate retirement system than social security (thank god).

I am now faced with the reality that my 22 years of "private sector" social security "benefits" will be reduced because I now have a "state funded" pension plan. This is outrageous! If Social Security was privatized, I would have *MY MONEY, IN MY ACCOUNT* and some bureaucrat would not be able to *INTEND* to do anything with *MY MONEY without my permission!! If I want to give it to others, then I could make that decision, not some Social Security analyst!*

You have no right to reduce my hard earned Social Security benefits because of the "*intentions*" of the program. What made the United States a great country is the fact that some of us work long and hard to have a better life. What you have done with this provision is slap all of us "hard workers" right in the face with an illegal reduction of benefits for some idiotic social scheme built on the "robin hood" theme. Take from the rich and give to the poor. Need I remind you that "the road to hell is paved with good intentions"?

From your web page I read—

"Your Social Security benefits are reduced because Social Security benefits were intended to replace only a percentage of a worker's pre-retirement earnings. The way Social Security benefit amounts are figured, lower-paid workers get a higher return than highly paid workers. For example, lower-paid workers could get a Social Security benefit that equals about 55 percent of their pre-retirement earnings. The average replacement rate for highly paid workers is about 25 percent."

The "windfall elimination provision" affects how the amount of your retirement or disability benefits is calculated if you receive a pension from work where Social Security taxes were not taken out of your pay. A modified formula is used to calculate your benefit amount, resulting in a lower Social Security benefit.

This Committee needs to do one or more of the following:

1. Eliminate the WEP altogether.
2. Provide full Social Security benefits for teachers now covered by state plans.

3. Require everyone to pay into Social Security and eliminate WEP altogether.
4. Privatize Social Security so the individual can determine where and when to spend his/her money. Halleluiah!!

Realize that your actions are important to many individuals that feel betrayed by a system that has no right to label hard work as a "windfall". Being a Senator or Congressman with six figure salaries, outrageous perks, retirement benefits, cheap insurance, and Social Security to boot is a true "*WINDFALL*". Take some of these goodies away from the "lords of the land" and see how they squeal like pigs.

Thank you for allowing me to opportunity to enter this into the record!

Sincerely,

Gary Kimber

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#### **Statement of Ralph Kush, Sylmar, California**

I'm requesting passage of H.R. 4391, the "Public Servant Retirement Protection Act" for the following reasons:

1. My wife passed away in May of 2003. During the course of our thirty-three years of marriage, my wife paid Social Security more than sixty-thousand (\$60,000.00) dollars. In addition, her private sector employers contributed an equal amount and the total received by Social Security is in excess of one-hundred and twenty (\$120,000.00) thousand dollars. Because I come under the provisions of the Government Pension Offset (GPO), as a survivor, I receive one hundred and sixty-six (\$166.00) dollars a month.
2. I have been self-employed for the past six years. That means I have been forced to pay into Social Security both as the employer and the employee. For the month of October 2003, I earned Two-thousand, nine hundred and sixty-two dollars and thirty-seven cents (\$2,962.37). According to Social Security, I will pay 15.30 percent or four hundred and fifty-three dollars and twenty-four cents (\$453.24) into the Social Security Benefits Program. I am paying into the Social Security Benefits Program more than twice the amount I receive each month as a survivor. It is also my understanding that after paying into Social Security as a self-employed individual, my monthly benefits will not change after full retirement.
3. Had I been employed in the private sector, I would be receiving full benefits as a survivor. Because I was employed by my government I only receive a fraction of what other survivors receive. I paid for my pension and receive an amount commensurate with the duties, years and contributions I paid into the system while being employed by my government. Why should I be penalized for receiving a pension I earned?
4. My wife died thinking all the monies withheld from her private sector earning would be of help to her in her retirement years or to her family in the event of her death. I am sure she never conceived that her government would keep a vast amount of all that money and leave her family less well off.
5. I do not understand how something so grossly unjust and unfair, something so obviously illegal and morally wrong, has been allowed to continue for so many years.

For the reasons cited above, I urge you to pass H.R. 4391.

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#### **Statement of Deborah Langford, Spring, Texas**

Thank you for the opportunity to express my opinion on the matter of Social Security and WEP. When I began with the school district in 1980, there was no penalty with me being able to have my own career and then still rely on my husband's social security in my older age. Especially, if he were to die before me. Now, that is not available to me, and also with the WEP, I cannot collect my own social security. I think this is very unfair, and Social Security was taken from my check every year for 11 years, (without my permission), and today, they tell me I can't receive any benefit from the monies that I paid in for those years. *To me, that is theft.* The government demanded that I pay into a system that would benefit me later, just to change the rules in mid-stream to accommodate themselves. America shouldn't punish people for working with the school districts, or their state by "stealing" the mon-

ies already paid into the system. We should at least be "grandfathered" into social security, since the WEP wasn't in effect when I started with a school district. Millions of other people are allowed to invest in social security and a pension plan at their jobs. Why should we be different? If I am not allowed to receive compensation for the 11 years, (plus what I will pay in, not voluntarily) when I work after retirement in 5 years, then all monies should be returned to me. If not, then again, *It is theft.* My daughter always wanted to be a teacher, but after teaching for four years, she had to make the decision to quit so that she could get another job, where she could earn a retirement and social security. This is really hurting the children, with so many school workers leaving the teaching field.

This bill restoring the Social Security benefits of thousands of teachers, police, firefighters, and other state and local government employees now reduced by an outdated federal formula known as the Windfall Elimination Provision (WEP) is a great advancement for all the ones that have been forced to pay Social Security without benefits. God bless you all, and I am making sure that all school workers know of your attempts to "make right", what was made wrong by stupid and ignorant politicians.

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#### **Statement of Paul E. Larson, Fallbrook, California**

My wife and I are impacted strongly by the Government Pension Offset and Windfall Elimination Provisions as they relate to Social Security retirement benefits. We are both retired teachers in the state of California. My wife retired in May, 2003 and I retired in June, 2004 at the age of 74.

I entered the teaching profession quite late in life. After serving four years in the United States Air Force and working in my family's automobile repair business in the state of Nebraska for approximately 15 years and contributing to social security for 30 years due to contributions from other occupations, I have been receiving social security benefits for the past four years. Since I was over the age of 70, I was able to continue teaching and still receive benefits. I was hoping to teach to age 75, but health issues that occurred in the past year have caused me to retire this past June. Now that I have retired from the teaching profession, I have been told by the social security administration that my benefits will be cut substantially when I need them the most. Should I become deceased, my wife as my dependent would not be entitled to any benefits due to the pension offset provision. This is extremely discouraging.

It is most sad that I have had to drive 140 miles per day round trip to my place of employment at the age of 74 in order to maintain my standard of living. I was counting on benefits from social security added to my meager California State Teachers' Retirement benefits to provide a comfortable retirement. Unless these provisions are changed, a comfortable retirement that I have worked for 55 years to obtain will not be a possibility. This is truly unfair.

Upon graduating from college in the state of New York and having obtained a teaching credential there, my wife worked in several different occupations during her college days and for several years after. She chose to move to California and become a teacher in 1965. She has accumulated 31 quarters of social security credit through working in other professions—real estate, immigration inspection, etc. Her plan was to accumulate at least 40 quarters by working after retirement from teaching. But due to the provisions indicated above, she would receive nothing for her efforts. What will happen to the money she has contributed to social security up to now? Will she just lose it?

Please don't continue to penalize us as dedicated educators who have given much to the teaching profession. Please enable us to receive the benefits we have earned. Please pass this intermediate bill and continue to work towards full repeal of both the GPO and the WEP.

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#### **Statement of Don LeCompte, Chula Vista, California**

It was the shock of a lifetime when the Social Security counselor told me that, contrary to my years of understanding, my retirement benefits would be reduced to a pittance of what I had been promised. It was explained that, because I am involuntarily part of the State Teachers' Retirement System, I fall under the cruelly ti-

tled, "Windfall Elimination Provision." (Up to this point the word windfall has meant to me some serendipitous, unmerited economic bonus.)

My situation is that I spent the first half of my work life, following my four year enlistment in the Air Force, in the field of business, working for IBM, Xerox and Standard Oil. When I felt the call to become a business and social science teacher my wife was working as a modestly paid elementary teacher herself and we had two young children. I traded in my stock options for a college education. When I earned my credential and entered the field of education I was fully vested in the Social Security System.

I happily spent the second half of my work life serving my students and their families and contributing to STRS. I have seen many of my students become entrepreneurs, business leaders, lawyers and solid citizens. I have always taught them of the benefits of active citizenship and self-determination.

Imagine my surprise at age 65 when I discovered that my years in the world of business and my years in the service of education would collide to cost me the retirement benefit I had consistently been informed I could expect.

My wife, by the way, has worked her entire adult life as a teacher and only earned 29 quarters of Social Security while putting herself through school. She has been cut off from the benefit she should have derived through our 45 year marriage because of the Government Pension Offset. Our question would have to be, "Offsetting what and for whose benefit?"

In the future we will have need for great numbers of new teachers; some are predicting a shortage of crisis proportions. Hopefully a balance will be drawn from among mature people attracted as I was from other fields of endeavor. If we expect our educational system to keep pace with ever-increasing demands, we must attract the best. How can we ask people of talent and good will to subject themselves to this future folly?

Please vote to repeal the WEP and GPO.

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Natick, Massachusetts 01760  
August 3, 2004

Representative Clay Shaw, Chairman  
Social Security Subcommittee  
The House Ways and Means Committee  
Washington, DC 20515

Dear Chairman Shaw,

When I graduated from college I never thought about Social Security, pensions, Medicare, retirement, etc. I was young and I was just glad that I had been offered a job. I worked at that job for a year and had Social Security taken out. Then I moved to Massachusetts and took another job in which Social Security was also taken out. Again, who ever related to retiring and collecting a pension? I returned to graduate school and then took a job in a school system where I joined the Massachusetts Teachers Retirement System. A number of years ago I took a second job as a means of supplementing my educator's salary. That job deducted Social Security and Medicare payments. I still didn't think about Social Security or it's ramifications. All I knew was that someday I would have a pension. Well, that someday is now only 2 years away. I will be eligible for my state pension but I also have the 40 quarters needed to be eligible for Social Security.

Over the years, I learned that even though money was being taken out for Social Security, money that was mine, part of my salary, I would not be able to collect its full value because I belonged to a State Retirement System, in one of the few states where you cannot collect a State Pension and full Social Security benefits. How unjust!!! How unfair!!! The government is keeping my money. I earned that money!!! It's mine.

I grew up in New York City. Both of my parents worked for the City. They contributed to both a City Pension System and to Social Security. When they retired they each made almost as much as I was making because they collected their City Pension and Social Security. They deserved it, it was the money that they had contributed and they were recouping it so they would be comfortable in their retirement. Why shouldn't it be the same for me? I guess they were lucky because they lived in New York. I am being penalized because I live in Massachusetts.

I could go on and on and list umpteen concerns about the Windfall Elimination Provision and the Government Pension Offset and their impact on my retirement income. I guess one question I do have is why is it called "Windfall" Elimination?

What kind of "windfall"? Is it a "windfall" because I would collect my State pension and Social Security? "Offset" my State Pension? Why? Why not? No matter how or why, no matter what the rational was when this was first passed, no matter the present implications, THAT MONEY IS MINE AND I DESERVE TO GET IT BACK AND GET ALL TO WHICH I SHOULD BE ENTITLED.

The Social Security Administration is concerned about finding the money to pay all the people affected, to recalculate and readjust payments already being made. Over all these years, they have been holding my money and the money of everyone else who has contributed but isn't getting their full amount back. What has been done with that money? It should have been accumulating interest all these years. Or, is the SSA using our money to pay full benefits to others? *Robbing Peter to pay Paul.*

I certainly hope the Committee, in its wisdom, will realize how unjust these provisions are. They effect all public employees in the given states. That includes not only educators but firemen, policemen, senators and representatives and any one else who has a state pension but also has earned their Social Security quarters. The fact that a person cannot collect both also has an impact on people who are contemplating a career change. People who might want to move from the private sector to the public sector. Should they have to give up their full Social Security benefits? Unfair.

Again, I could go on, as I tend to do, but I think you are all aware of the implications of the WEP and GPO. I hope you will all DO THE RIGHT THING and repeal this provisions.

Thank you for your time and attention.

Sincerely,

Jane Lenarsky

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#### **Statement of Harold N. London, Northbrook, Illinois**

As a retired teacher, I often hear people talk about our retirement benefits. I assure you that they are not exorbitant, and are often less for more time on the job than other government employees who do not also have to face reduced Social Security benefits. I currently pay almost maximum Social Security, but will face a reduction in benefits simply because I receive a pension that I have paid into for 34 years as well. I feel that if I face a reduced Social Security benefit, I should pay a reduced amount to Social Security while I am working. If I pay, I should receive the benefits to which I am entitled I have more than fulfilled my 40 quarters of contributions, and continue to pay in to the system. I should receive the benefits to which my contributions would entitle me, not one reduced arbitrarily by law.

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#### **Statement of Linda and Fred Makler, Ballwin, Missouri**

To: Committee on Ways and Means Hearing on H.R. 4391, the "Public Servant Retirement Protection Act"

My name is Linda A. Makler, and I am a retired Missouri Public School Teacher. My husband, Fred A. Makler, is also a retired public school teacher. Before re-entering the teaching profession in 1986, I held other positions in which I contributed to the Social Security System. My husband, Fred, taught for 30 years, and in addition, worked two other jobs, after school and summers to support our family. He also contributed to the Social Security System. We each have accumulated 40 quarters but are receiving a very small monthly benefit in addition to our teacher pension. We feel this is unfair. We contributed to Social Security in good faith and expected to receive the benefits of our contributions. Please do all you can to pass the Public Servant Retirement Protection Act, H.R. 4391.

Thank you for your interest, concern, and positive vote

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#### **Statement of William A. Mathison, East Longmeadow, Massachusetts**

I wish to express my outrage at the unfairness of the Government Pension Offset (GPO). As I understand the provisions of the GPO, because my wife has a Massa-

chusetts' Teachers Pension she will not receive full Social Security spousal benefits in the event of my death. After paying into the Social Security System for over forty years I am enraged that my wife's retirement security will be reduced because of this offset. I urge you to repeal this provision immediately!

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**Statement of the Honorable Howard P. "Buck" McKeon, a Representative in Congress from the State of California**

Thank you Chairman Shaw, Ranking Member Matsui and Members of the Social Security Subcommittee for holding this important hearing on HR 4391, the Public Servant Retirement Protection Act, which takes a strong step forward in obtaining equity in Social Security for our nation's public servants.

As you know, full repeal of both the Windfall Elimination Provision (WEP) and Government Pension Offset (GPO) has become a very important issue to public servants, their spouses and families nationwide who earned both a Social Security benefit and a benefit from a Social Security substitute, such as a state pension plan throughout their careers. Although these provisions are only applicable to some 13 states, they affect people in many of our nation's most populated states such as Massachusetts, Texas, Illinois and my home state of California.

For this reason, my friend, colleague and fellow Californian, Congressman Howard Berman, and I have spent the last two Congresses working hard to provide these dedicated firefighters, police officers, teachers and other public servants with the money that they have rightfully earned over the course of their careers. Our legislation, HR 594, the Social Security Fairness Act, accomplishes that goal by completely repealing both provisions.

Since introduction of H.R. 594, we have spent a lot of time in discussion with Chairman Shaw, other members of Congress and various advocates, so that we could come to some compromise that would assist these workers with some financial relief before the end of the year. As such, I signed on as an original cosponsor to HR 4391, the Public Servant Retirement Protection Act, introduced by Congressman Kevin Brady, which will provide relief to those workers unjustly affected by the WEP.

Specifically, the legislation repeals the arbitrary WEP formula and treats public servants' Social Security contributions like the rest of the American workforce. Under this legislation, a worker's entire work history, regardless of whether he or she paid into a Social Security substitute, would be used to calculate benefits. The benefit formula would be the same as applied to all other American workers. To ensure Social Security benefits are based on Social Security wages, the benefit would be multiplied by the percentage of earnings subject to Social Security taxes.

While H.R. 4391 does not address the GPO, we still recognize the importance of its effect on retirees and their spouses. It is our full intention to continue to work with the Subcommittee and its members to push for further reforms of these provisions in the near future.

I want to express my gratitude again for allowing me the opportunity to share my comments with the Subcommittee today.

Thank you.

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Houston, Texas 77096  
August 3, 2004

Committee on Ways and Means  
1102 LHOB  
Washington, DC 20515

Dear Social Security Hearing Advisory,

I am writing in reference to the Government Pension offset and the Windfall Elimination Provisions of the Social Security System.

In Texas, as well as other states, the recruiting and sustaining new teachers in the field of education has become more difficult each year. States and school districts across America are desperately trying to find certified teachers to fill the diminishing ranks caused by attrition rates, leaving for other jobs, or simply because of the low pay and benefits that most teachers receive across our nation.

Benefits are a critical issue when recruiting employees in any job. "Head-hunters" for corporations tout benefits in accompaniment with salaries. One of the means to

fill the vacancies in education is to find workers, current, or retired, who hold college degrees in any field and place them into education through "alternative" certification methods.

Any employee who works in a school district which selected not to participate in our government's Social Security System, should not be penalized that business did not dig into its coffers to match Social Security Benefits for that employee whom they hire. It is common knowledge that teachers and all those who support their efforts in a school system traditionally have some of the lowest paying jobs. As a contract worker, my benefits paid by my employer are sick days and contributions to a health care plan.

Until recently, there were few ways a teacher could receive "extra money" within a school system.

A teacher that I admire greatly who is a single mom of five, left her job at school each day and went to work as a grocery cashier until midnight for years to support her family. She is still a career educator. Is she a double "dipper?" Another friend, recently lost her husband before she reached her magic number (80) to retire from her long time, educational district that selected not to pay into the system. She will not receive her spouse's Social Security check now. She could not retire on June 30, 2004. Many educational employees have left employment in Texas to meet the dead line of June 30th. In this manner, spousal benefits would not be denied. Your committee's recommendations in the upcoming months will have an effect on millions of families. Many educators wanted to keep working left the workforce. The idea of retiring to receive what was rightfully promised from our government, is a "forced" decision created by the current law(s). This is not a "recent" occurrence. Several years, a friend phoned me so distraught after retiring from her school district. She had paid into northern school districts, private schools, etc., which paid into the social security system. When she retired from a school system in Texas that didn't pay into social security, she "lost" 2/3's of the money she had earned. To add to this, she will not receive spousal social security if he precedes her death (it would be the greater of the two).

I could go on. But, the point should be made by now. Why would any person retired or otherwise wish to work in a system that does not pay into social security? Many people retire from one job to work again. How could this committee vote for a taxpayer to have full deductions taken out and then receive 2/3's less or nothing, while other workers do not?

If you speak to a person who started teaching at an annual salary of \$1000, they would confer that after 30-40 years in education, their retirement check and even having full, social security benefits would provide an income barely above the poverty level. Therefore, having another pension is essential to provide a satisfactory level of income with inflation considerations. They were counting on both checks at full value. Many people have left the educational system as of June 30, 2004 to "beat" the loophole. This mass exodus left many jobs without experienced employees. This loophole was not criminal then and would not be now if it continued to exist. My grandmother never worked outside the home, did not pay into the social security system, and received her husband's social security. My grandfather was a farmer and sought a job that paid some Social Security for her. Children who never pay into the system receive benefits from a deceased parent until age 18 while perhaps, simultaneously having a job after the age of 16. Will you call that child a double dipper?

Equity is the question that I would address to your committee. "Will you be our Representative that does not try to balance the budget with state or federal employee benefits?" This is simply not the solution. Any company that has 20,000 employees should pay into social security and not have the option to eliminate those monies into the social security system. This could put money into the system. Does our government wish to have situations of this nature to embed reducing social security recipients by 20,000 employees in the future? If so, you have created a system of no-win for both our government and citizens.

Do I have all my quarters? No. My husband worked sometimes three jobs while supporting our family and putting me through school. The district that I work in does not pay into Social Security. Honestly, at the time, 1978, the amount not taken out paid for many things we would have not had. No one explained the causal effect. Medicare, what was that in the 60's and 70's to a young worker? I needed that money. I remember leaving a job with an oil tool company because I did not get a raise of \$ 5 a month when I was making less than \$200 per month. I had earned that small raise. I left because I felt betrayed for doing a job well done. The next day, I found another job that paid that 5 plus 5 more. Now, twenty-six years later, I have been employed by the largest employer in Houston, Houston ISD. It did not contribute to social security. Therefore, I am caught in this dilemma.

Teachers who left our ranks faced this question, "If I stay, will working keep reducing my benefits? If so, I must leave even if I don't won't too." They left to receive what their husband, wife, etc. had earned honestly in social security. To imply now that somehow it is "cheating" is simply a deep betrayal. For people coming into a system that does pay into Social Security, that employer should give the opportunity to the employee to decline or to pay into Social Security. Why does our government allow an employer to make a decision not to support the Social Security System? My school district is the largest employer in this city. As an educator, where were my chances of getting a job?

Employers should by law provide training and full disclosure of what not paying into Social Security could mean 30 years into an employee's future. Where was the label on the education, postal, firefighter, VA Hospital employment papers warning us that this company's policy was dangerous to our financial health? Who will testify that this information was withheld from the worker? Where in the contract was the fine printing that we, the public servants would receive fewer benefits for ourselves or from a spouse because we worked for a state or federal company? Who was responsible for not reporting this to the worker years ago? Was it our government, employer, of a joint "don't tell if not asked?" I am still finding people today that do not know of this policy. Your citizens are distraught that their Social Security earned will be cut entirely or reduced. Do we have the option to pay into Social Security now what should have been taken out all along?

I still have a job to tend to tomorrow in the same district that does not pay into Social Security. I recently compose a letter of recommendation for a peer who is seeking employment. She is a widow of two years. Her husband worked hard to provide for her. Social Security was part of that plan. She now does not qualify for his social security. She has changed jobs to a system that pays into social security and Texas Retirement System. My own husband worked over thirty years providing service to our veterans in the VA Hospital. He maintained many other jobs over the years that garnished social security from his paycheck. Now, the government will reduce the benefits he earned and will stop all his survivor benefits from me if he proceeded me in death.

What would this committee say to the deceased husband or wife who paid into social security for years to have a fund available in case of his or her death for their surviving spouse? My friend must count every penny after the medical bills added up and wiped out most of their savings before her husband's passing. She continues to work, as she will receive nothing from her deceased husband's social security to offset living expenses at this time. She will do what she has to do. But after 30 years of her and her husband's financial planning together, the government decided that she should not receive money that her husband had earned. Your committee must address this issue of equity. Equity in terms of how benefits earned are then provided back to each citizen. Selecting one group over another is governmental discrimination. Selecting a group that the committee feels is most "deserved" is subjective and based on a means to "balance" the budget. Using one group's money, state and federal workers, to balance the budget by cutting or eliminating spousal or personal benefits is not a solution. You, our legislators, have placed citizens who did not work in state and federal employment the majority of their careers into another category. You have decided up to this point, our future, with out due process from all concerned.

I am asking you to help my friends, my retired uncle (postal worker), and the countless others, including my husband and myself, who feel the absence of equal treatment guaranteed under our American law.

Respectfully,

Sandra L. McLemore

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#### **Statement of Valerie J. McNay, Las Vegas, Nevada**

I am a 53 year old woman with a Ph.D. and employed as a Speech/Language Pathologist in the Clark County School District, Las Vegas, Nevada for the past 10 years. I could work in private practice or in a hospital, home health care organization, university or other facility—but I love to work as a school based speech/language pathologist because I can provide my services to those students who need treatment regardless of their ability to pay.

Prior to relocating in Nevada to work for the 5th largest and fastest growing school district in the country, with extreme shortages of professionals in my field—I had worked for 27 years in the states of Michigan, Indiana, Montana, and Kansas

and in all of the various positions I held I these states I contributed to the Social Security System. I receive my periodic reports from Social Security indicating what I have contributed and my expected benefits upon reaching retirement age.

When I was considering the position in the Nevada Public Schools, I was told that though the salary I would receive was not very high for someone with my credentials, I would be receiving an excellent benefit package worth approximately nearly \$7,000 per year if I had to pay for these benefits out of my own pocket and this included the district's contribution to the Public Employee Retirement System in Nevada and since FICA would not be taken out of my salary I would see more money in my paychecks. These financial considerations were important in my decision to accept the position in Nevada, since I am my sole provider.

I had no idea there was such a thing as WEP (the Windfall Elimination Provision)—which is an inappropriate name for an act which reduces the Social Security Benefits I earned because I happen to have chosen to take a low paying position in the public schools for which I will receive a small public pension (depends on years of service and I have worked nearly 30 years in Social Security system and only 10 in my current public pension position). If I had known about this unfair legislation, I don't think I would have accepted a position in the Nevada Public Schools at this point in my career—I would have sought out position in the Social Security system so as not to loose the benefits I have earned over nearly 3 decades.

Not only am I hurt by this unfair legislation but many of my colleagues are also being penalized not only by WEP but also by GPO (Government Pension Offset). The services for children in the Nevada Public Schools is also being harmed because we are losing good speech/language pathologists and other specialists and educators when they find out they will have their Social Security benefits reduced by staying in the teaching profession in Nevada. In our department alone, we are almost always short nearly 50 positions because of the growth in the district (1 new school built every month) and now the difficulty in recruiting staff from out of state who will be penalized like I will be. Please do the right thing for teachers and other poorly paid public employees and allow us to keep the benefits we earned by repealing both the WEP and the GPO. If there is further information that I can provide to the committee please feel free to contact me.

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#### **Statement of Elsie Lynn Meehan, Salisbury, Connecticut**

I am a 61 year old retired teacher from the Connecticut and New York public schools. After teaching for 35 years, I was quite confident about my retirement benefits until I learned of the WEP and GPO laws. I discovered when I attended a retirement seminar, that even though I have met the requirements for Social Security benefits while I was teaching in New York state for 13 years, I am eligible for only 40% of these benefits because I retired after teaching in the state of Connecticut. There is no logical explanation for this reduction of federal benefits because of a state's employment.

For years, I have received my Social Security earnings reports with no indications that my benefits would be reduced so drastically. Specifically, the report states that my earnings at age 66 would be about \$747 a month; but in reality, I will receive about \$298 a month. Since my husband was also a teacher, our two retirement funds are hardly what one would call a windfall, especially when we compare our incomes to those in the corporate world who receive substantial retirement benefits, golden handshakes, and full Social Security.

There seems to be an underlying belief that retired state workers in 14 states do not need Social Security payments to live comfortably. This argument, at its best, is arbitrary and unfair. It does not take into account cost of living in our state nor the relatively low salaries of teachers. And in my case, why should my teaching in Connecticut have any effect on the benefits I earned in another state at another time??

I must add a comment about the WEP. If my husband predeceases me, I will not be allowed to collect any of his Social Security payments. That means that I must provide for all my housing, medical and food bills on my retirement income and 40% of my Social Security benefits. This is not the way to treat your public servant who has taken care of this country's children for 35 years!

The Public Servant Retirement Protection Act offers an important first step toward the ultimate action of repealing both the WEP and the GPO. Increased Social Security benefits will make a real difference in the lives of your public employees. I urge you to move this important bill to final passage and enactment into law.

Ultimately though, both the GPO and WEP must be repealed and the fair and equitable treatment of your public employees must be obtained.

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**Statement of Mary Ann Moore, San Antonio, Texas**

I am currently a teacher in San Antonio, Texas. I am concerned with the unfairness of the non-application of social security funds for educators who have held other jobs before becoming a teacher. I was a late bloomer and did not earn my degree till I was 38 years old. Prior to that time I worked several jobs and earned social security benefits for a number of years. At the present time I work an extra job to increase my income. I feel that postal employees and military personal are able to get their retirement benefits and still collect social security without being penalized. Why can't the same apply to educators? Your child's teacher, neighborhood policemen, and firemen should be afforded the same privilege especially if they contributed to the social security fund?

These hard working Americans who have earned Social Security benefits are not getting a "windfall." We are merely asking to receive the benefits we earned. Please support the Public Servant Retirement Protection Act offers an important first step toward the ultimate goal of repealing both the WEP and the GPO. It will make a real difference for many public employees, who will receive increased Social Security benefits as a result. As a teacher, I urge the Committee to move this important bill quickly to final passage and enactment into law, and we urge Congress to continue to work toward full repeal of both the GPO and the WEP. Thank you.

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Sparks, Nevada 89436  
*July 15, 2004*

Committee on Ways and Means  
 1102 LHOB  
 Washington, DC 20515

Dear Congressional Committee Members:

I urge you to support H.R. 4391. I have always been under the impression that my Social Security earnings would supplement my retirement as I had always been told as a young man. I had my first Social Security earnings withheld in Corpus Christi, Texas when I was eleven years old. Today, I am approaching retiring age and hope to retire within 3-5 years. From my perspective, the government has changed the law as it applied when I initially began having Social Security earnings withheld from my wages. Now I am being told that I am eligible to draw a fraction of what was promised to me.

As a teacher for 30 years and having paid into the Social Security System for a minimum of 40 quarters, it is only fair that I should be entitled to what I was promised initially. Please support and help us pass H.R. 4391. It will be of tremendous help in fulfilling a promise to the American worker.

Sincerely,

Robert R. Muñoz

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Point Blank, Texas 77364  
*August 1, 2004*

Representative E. Clay Shaw, Jr.  
 Chairman  
 Subcommittee on Social Security

Dear Representative Shaw:

I am a retired Texas Public School teacher with 35 years of experience in the classroom. At the time that I retired from Jasper ISD in 1997, Jasper was not contributing to Social Security. However, I had worked for the Port Arthur ISD who did contribute to the SS System for their teachers. Prior to my teaching career, I worked in several businesses in which I paid into the Social Security System giving me more than forty quarters of contribution. Now that I am retired from a school district that did not pay into Social Security at the time I retired, I am getting only

one-third of the amount that I should be allotted. The SS office told me that I should be getting \$1,100. a month from my deceased husband of 39 years if it were not for the unfair Offset Laws. I only get a payment of \$260. monthly which is a third of my earned Social Security. Of that amount, \$66. is taken out for Medicare.

Therefore, I am in favor of a complete repeal of the GPO/WEP. Please let this bill out of the Ways and Means Committee to be voted on in Congress. It has only 45 co-sponsors. This bill will not "fix" the Offsets. Also, I am in favor of the Discharge Petition for HR594 (the bill that would totally repeal the Offsets). It has 192 co-sponsors and only 26 more would force a vote on the bill. There are 300 co-sponsors for HR594. Please consider this plea from a retire Texas teacher and vote to repeal the GPO/WEP Offsets

Sincerely,

Sally P. Montague

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**Statement of Wally Olihovik, National Association of Postmasters of the United States**

Thank you, Chairman Shaw and Members of the Subcommittee. I appreciate the opportunity to share the views of the more than 40,000 members of the National Association of Postmasters of the United States (NAPUS) with you regarding legislation to modify the Windfall Elimination Provision (WEP). Moreover, NAPUS is pleased about the legislative efforts of Representative Kevin Brady and other members of this Subcommittee to alleviate the impact of the WEP on public employees. H.R. 4391, "the Public Servant Retirement Protect Act," is a positive first step in addressing the legitimate needs of retired postmasters and other retired government employees.

As members of this panel know, the WEP unfairly slashes the earned Social Security benefits of retired and disabled workers receiving annuities from employment not covered by Social Security. This large group includes many retired and soon-to-be retired postmasters. Postmasters who have Social Security covered employment contribute into Social Security just like private-sector employees. They should not be treated differently.

I would like to note for the record that NAPUS continues to urge this panel to report favorably legislation to lessen the punitive affect that the Government Pension Offset (GPO) has on the surviving spouses of many Social Security recipients. Last year, NAPUS submitted testimony to this Subcommittee requesting that Congress enact legislation to correct both the WEP and the GPO problem.

Under the WEP, postmasters who retire under the Civil Service Retirement System (CSRS) can lose almost two-thirds of their earned Social Security benefit. This is simply not fair. In 1983, Congress enacted the WEP during a legislative frenzy to "save" Social Security. The intent was to eliminate a "windfall" for public employees not covered by Social Security, yet who also worked in positions under which they earned enough credits to qualify for Social Security. The offset amount is arbitrary and regressive. The WEP victimizes many retired postmasters who managed small post offices for which their salary history renders them ripe for financial distress without their full-earned benefits under both CSRS and Social Security.

Obviously, repeal of the WEP is the desireable alternative. Nonetheless, the legislation under consideration today, H.R. 4391, is a positive step forward. The measure would require that the Social Security Administration to compute Social Security benefits based upon a person's entire work history, using the standard benefit formula. The Social Security benefit would be adjusted to reflect the portion of the employee's earnings that were subject to Social Security taxes. This legislation would aid low and middle-income government retirees, while also guaranteeing that no employees subject to the WEP would receive less than currently entitled. Furthermore, Representative Brady's bill would apply to current and future Social Security beneficiaries. In sum, the measure would replace the current arbitrary WEP offset with a better, more appropriate, mechanism to narrow the impact that the WEP has on former public employees.

While H.R. 4391 does not remedy completely how the Social Security law discriminates against public-employed retirees, the legislation strives to lessen the financial distress they suffer. Therefore, NAPUS urges the Subcommittee to report favorably the Public Servant Retirement Protection Act.

Thank you.

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**Statement of Colleen M. Kelley, National Treasury Employees Union**

**Social Security Provisions Affecting Public Employees**

Chairman Shaw, Members of the Committee:

I am Colleen M. Kelley, the National President of the National Treasury Employees Union (NTEU). NTEU represents more than 150,000 federal employees across 30 agencies and departments of the federal government.

First of all, Mr. Chairman, I want to thank you for holding this important hearing today. NTEU has presented testimony on many occasions and before several different Committees of the Congress over the years on the need to address the havoc that both the Windfall Elimination Provision (WEP) and the Government Pension Offset (GPO) have caused for federal employees and retirees.

While we are disappointed that the legislation under consideration today does not address the GPO, NTEU is nevertheless pleased that the Social Security Subcommittee is examining the need for reform of the WEP. NTEU is on record in support of bills to repeal and/or revise both the GPO and the WEP. These two Social Security offsets may affect the benefits of as many as 7 million federal, state and local government employees. As you know, many of these employees first learn of the potential application of either the GPO or the WEP to their expected Social Security benefit at the time of retirement. This frequently comes as a devastating blow to their retirement plans.

The WEP unfairly reduces the retirement income of many federal retirees by reducing their own earned Social Security benefit by as much as 50%. Under current law, an employee eligible for both Social Security and a pension from work not covered by Social Security finds that a lower benefit formula is applied when calculating the Social Security benefit to which he or she is entitled.

For example, a private sector worker with average monthly earnings of \$500 would be eligible for a Social Security benefit of \$450 each month (90% of \$500) at age 65. Using the same earnings as the private sector worker, a former federal employee at age 65 who is affected by the WEP would have his or her Social Security benefit calculated using a 40% formula in place of the 90%, significantly reducing the Social Security benefit he or she expected in retirement.

The use of this lower formula—simply because the individual chose to spend his or her career in public service—has a devastating and unfair effect on the retirement plans of many federal employees. Those federal employees with 30 or more years of substantial Social Security covered employment are exempt from the WEP; however, it is a rare federal employee that can complete a public service career and also have 30 years of Social Security covered employment.

It is precisely this financial devastation that so many federal employees only learn about when they apply for retirement benefits that has led so many members of Congress to introduce or cosponsor legislation to repeal or revise the WEP. Congressman McKeon (R-CA) has introduced H.R.594 to repeal both the GPO and the WEP provisions. This bipartisan bill has already garnered 300 cosponsors. In addition, Senator Feinstein (D-CA) has introduced S.349, legislation that also seeks repeal of both the GPO and WEP offsets. Her bill has attracted 30 cosponsors.

Moreover, two other bills are pending before Congress that address the WEP. S.1011 (Kerry, D-MA) would restrict the application of the WEP to those individuals whose combined monthly income from both Social Security and a public sector pension exceeds \$2,000 each month. Congressman Frank (D-MA) has introduced similar legislation in the House, H.R.2011.

H.R.4391, the Public Servant Retirement Protection Act, and the subject of today's hearing, seeks to apply a new benefit calculation that would take the place of the WEP. It is my understanding that under the new benefit calculation contained in H.R.4391, an employee's potential Social Security benefit would first be calculated as if Social Security deductions had been applied to all the employee's earnings (even for periods that the employee may have contributed instead to a retirement plan such as the Civil Service Retirement System). The standard Social Security benefit formula would then be applied and a Social Security retirement benefit determined.

That potential benefit would subsequently be multiplied only by the period of time that the employee actually contributed to Social Security. This final calculation would determine the individual's actual Social Security entitlement. If half of the employee's career had been spent in positions covered by Social Security, for example, then the employee would be eligible to receive half of the Social Security benefit to which he or she would otherwise be entitled.

While NTEU appreciates the Subcommittee holding this hearing to review H.R.4391, we would encourage the Chairman to fully consider these other pending

proposals for reforming or repealing the WEP. H.R.594, in particular, with 300 current cosponsors should be the subject of thorough review by the Subcommittee.

In addition, NTEU urges this Subcommittee to hold hearings and consider legislation to either repeal or reform application of the GPO. This offset unfairly penalizes recipients of government pensions who are also eligible for Social Security based on a spouse's work record. The GPO reduces the spousal Social Security benefit by two-thirds of the amount of the government pension. In entirely too many cases, this provision results in the elimination of any Social Security benefit the federal retiree is otherwise eligible for.

Unlike the WEP, which predominantly affects men (December, 2001 data from the Social Security Administration indicates that 67% of those affected by the WEP are male), the GPO has a particularly devastating impact on female federal retirees who frequently are eligible for smaller federal pensions than their male counterparts. This stems from a number of reasons, including interruptions they may have had in their careers while raising their families or working at lower paid positions for the bulk of their federal careers.

A primary example of this is the elderly widow who is eligible for a monthly pension of \$600 based on her federal government service. Two-thirds of her pension, or \$400 must be used to offset any Social Security spouse's or widow's benefit for which she is also eligible. Assuming she is eligible for a monthly spousal Social Security benefit of \$500, the application of the GPO results in her receiving only \$100 in Social Security each month. The GPO has effectively slashed this individual's retirement income from \$1100 monthly to only \$700 each month.

More often than not, the GPO disproportionately affects those who can least afford to forgo this retirement income. Had individuals such as the widow in the above example not dedicated their careers to public service, they would remain fully eligible to collect their spousal Social Security benefits. As you know, the GPO does not apply to individuals who collect private pension benefits and are also eligible for Social Security.

According to the Social Security Administration, more than 300,000 former federal employees have their Social Security benefits reduced as a result of the Government Pension Offset (December, 1999 data). It is particularly troubling that 69% of these individuals were women and the average offset applied to their Social Security benefits was \$391 each month.

I bring these facts to the Subcommittee's attention in the hope that the Subcommittee will consider legislation to amend or repeal the GPO. In addition to the bills mentioned earlier, H.R.887 (Jefferson, D-LA) would impose the GPO in only those situations where the combined federal pension and Social Security benefit exceeded \$2000 monthly. This bill currently has 126 cosponsors. Legislation pending before the Senate, S.363 (Mikulski, D-MD), would only apply the GPO when the combined pension and Social Security income exceeds \$1200 each month. This legislation is currently cosponsored by 28 Senators.

It is my understanding that H.R.4391 has been estimated to cost \$7 billion over a 10-year period. In this period of tight fiscal restraint, I applaud the Chairman for his interest in taking steps to address the WEP. However, in NTEU's view, it is equally important that Congress commit the necessary resources to address the GPO. Thank you very much for this opportunity to share our views with the Social Security Subcommittee.

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#### **Statement of Constance G. Newman, Acton, Maine**

Please repeal WEP and GPO

I have been the wife of a retired teacher for 16 years. He served as a teacher/guidance counselor for 34 years before that. I raised four children on the meager teachers salary of those days. I worked part time getting 36 small quarters of Social Security in. He worked more time out of necessity, making his full 40 quarters. He EARNED his Social Security benefits.

He also attended more classes at his expense to keep up his teaching and guidance qualifications and value to the children.

Our Social Security benefits are cut because he has a teachers pension. He gets \$381 a month and I get \$135 a month. If he dies, I will receive nothing because of his teachers pension. But he EARNED his Social Security benefits. I feel that I earned something too, even if only in the part I played in keeping him in education when there were other more lucrative jobs available by taking care of our children and working part time.

Our health insurance premiums are about \$450 a month out of his teachers retirement pension of approximately \$1440 a month gross, before fees, taxes etc. The COLA increase in Social Security and retirement pension is not a thirtieth of the increase in the health insurance premiums annually. We are going backward in income and will have to give up some essential living expenses at some time soon. Our small savings will not keep our house going. Maybe we will lose health insurance.

Many people receive both private pensions AND Social Security benefits, many who do not need them. Teachers, police, fire department workers and others who serve their community all their lives deserve the same treatment. Even members of Congress receive both, do they not?

Please repeal these unfair and perhaps illegal laws. Where will you get your public servants in the future if these are treated this way?

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#### **Statement of Francis A. Newman, Acton, Maine**

How WEP and GPO affect me and my family

I taught school and was a guidance counselor for thirty four years. Salaries were and are not high for teachers and I was forced to do other work to support my family which included four children. I also had to continue to take education courses to keep current with teaching standards.

I earned my forty quarters in Social Security benefits.

After retirement from teaching I found that my SS benefits were cut deeply because I had a teachers retirement pension which amounts to about \$19000 a year. I receive \$381 per month in Social Security and my wife receives \$135 per month. If I die, she would receive no SS benefits at all because of my teachers pension income.

Health insurance premiums are approximately \$450 per month for the two of us. They outstrip by far any COLA included in the pension or Social Security updates. Therefore our income is going backward year by year becoming less and less.

Please understand that I EARNED this Social Security benefit that I am not receiving. It was not given to me. At some point, we will not be able to afford health insurance or some other necessary cost of living. We live frugally now.

I urge you to repeal the GPO and WEP bills. They are totally unfair to people who gave up lucrative types of work to serve their country and their children. At the same time they earned the benefits they are now denied.

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#### **Statement of Joan Nimerowski, Andover, Massachusetts**

As an educator for nearly 30 years (1976–2004), member of MTA and a member of my local teacher organization AEA, I am submitting testimony in regards to the current House Ways and Means Hearing on the Public Servant Retirement Protection Act.

I started my full time working career in 1974. I was just out of college and unable to find a teaching position, so I took a clerical position in a local office and worked there through 1974 and 1975. I paid Social Security taxes on about \$4,000 of income for those two years.

In 1976 I found my first teaching position in a small Lawrence "parochial" school at the grand salary of \$6,300. I continued there for the next 7 years until 1983 leaving at the grand salary of \$8,500. Obviously, I worked additional jobs year round to supplement the low salary. Altogether I contributed Social Security taxes on about \$56,000.

From 1983 to 1986, I worked 1 year at a public library and then taught for 2 years in a New Hampshire school system. I contributed to Social Security on about \$25,000 over these 3 years.

From 1986 on I did not contribute to Social Security as I worked in a local community college part time and then in 1989 started in the Massachusetts public school system. I have paid into MTR since 1989 and have paid in to "buy back" substitute teaching time, New Hampshire teaching time, and my public library time. Much to my dismay I cannot "buy back" the 7 years I taught in a *parochial school* or the three years I taught part time in the community college. I am also denied the full Social Security benefits I contributed from the 7 years spent teaching in a

parochial school. I have no pension from those 7 years either. I'm not clear how Social Security could be considered a "windfall" in this case.

In conclusion, I feel the WEP as well as the GPO are penalizing me in three ways. First, I will not receive the benefits from Social Security that I contributed from my working years both in and outside of teaching. Second, I can't "buy back" the 7 years parochial school teaching time, which would help provide years towards the MTR system, and I again won't receive the benefits from Social Security for these years. Third, due to GPO, I'll lose a good portion if not most of my husband's Social Security benefits if he should predecease me.

According to Social Security records I would be eligible to receive \$370 per month in 2014 at age 62 (full benefits). If this were cut by 2/3 (WEP), I would receive about \$125 per month or \$1500 year. If I add this to my approximately \$30,000 to \$35,00 per year retirement, I come up with a total of about \$31,000 to \$36,000 per year, not a very strong retirement package after 38 years as an educator.

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#### **Statement of Jim Oldebeken, Gladstone, Missouri**

What successful American has not been positively affected by at least one teacher? Our teachers give us the knowledge, tools, inspiration and vision to succeed in our chosen profession.

For this reason I am shocked to learn that teachers and other public servants are denied a full social security benefit under the so-called *Windfall Elimination Provision (WEP)*. Such is not the case with private sector workers and the military who receive all of their social security benefits in addition to their primary retirement plan benefits.

My aunt, Sally Navarro, was a Junior High English teacher for 21 years. After leaving the teaching profession in 1984, she worked in the private sector and paid into Social Security for 20 years, earning 80 quarters under Social Security. Although the threshold for full retirement benefits is only 40 quarters, the WEP penalizes her for having been a teacher and participating in California's teacher retirement program, and denies her 56% of her rightful Social Security benefits.

She is not alone. Over 7 million teachers, police officers, fire fighters and other government employees are discriminated against in a like manner.

The WEP creates several embarrassing problems:

- Discriminates against "public servants" who traditionally receive lower pay than private sector workers and the military.
- Causes some retirees to have to resort to government assistance programs like food stamps.
- Discourages young people from becoming teachers, fire fighters, and law enforcement officials.
- Further undermines the reputation of the Social Security Administration as a fair, effective and properly managed federal agency

Congress should not delay to pass this legislation. The excuse of "*it's an election year*" is not acceptable. America needs H.R. 4391 to end injustice toward a group of seven million Americans we should protect and revere for their service to this country and all of its citizens.

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Palmer, Massachusetts 01069  
July 17, 2004

Dear Committee Members:

Some 35 years ago, like so many other teachers, I found it necessary to hold two (sometimes three) jobs to support my family. I chose radio news broadcasting as my second "career," because in addition to providing supplemental income, it also enhanced my teaching as a journalism instructor. I worked in radio over a period of two decades.

I contributed Social Security payments during all those years, both because it was required and because I anticipated one day to supplement my teacher's retirement pension with my SS earnings. However, I narrowly missed the legislated cut-off date for making me eligible to receive the full benefits of my SS contributions.

All those late nights and weekend days away from my family were a sacrifice I was willing to make in order to provide a better life for them. Without a second job,

it would have been very difficult, perhaps impossible, to make mortgage payments on a home. Now, in our retirement years, Social Security income would be very helpful for my wife and me.

The WEP and GPO are extremely unfair penalties for teachers and others who spent their careers in public service. It also bothers me a great deal to hear this situation referred to as a "windfall." These Social Security benefits are benefits that I earned, just as everyone else, through deductions from my paychecks.

My wife and I urge you to move the Public Servant Retirement Protection Act to final passage and into law, and we urge Congress to continue to work toward full repeal of both the GPO and the WEP.

Thank you.

Edward W. Orzechowski

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#### **Statement of Jane K. Pickett, Worcester, Massachusetts**

I am very interested in the resolution of this act of Congress. I have earned the requisite number of quarters to enable me to collect Social Security.

I'm also a late comer to the higher education system of the state of Massachusetts.

With retirement in the foreseeable future, I will need to be able to use both benefits in order to maintain even a marginal standard of living. As you well know most public service jobs are not especially lucrative. At age 67 I would be able to get 80% of \$42,000.

I can't help but think about the retirement system that members of Congress are entitled to. Is it 100% of their current salary?

I'm weighing for the public record because I think Congress needs to know that most public servants are not in lucrative positions, and will need as many resources as they are eligible for.

Please restore our Social Security benefits, we have rightly earned them.

Thank you for your consideration.

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#### **Statement of Richard Pond, Rochester, Massachusetts**

I am writing to voice my opposition to the WEP and GPO bills before you for your consideration. I urge you to reject these acts as being unfair and hurtful to retired public servants who have had to work second and third jobs to provide for their families. As an elementary school teacher, that is what I had to do for 20 of my 30 years of teaching. I earned my social security benefits and I ask that you give me and others like me the benefits we earned.

Our nation cannot afford to penalize educators, police, firefighters and other public servants who have dedicated their lives to serving their communities and their nation.

By supporting the Public Servant Retirement Protection Act, you, the members of congress, will move toward repealing both the WEP and the GPO. That repeal will make a great difference in myself and my wife's quality of life in retirement. I am sure I speak for many public servants who have had to work second jobs and have social security benefits that they have *earned*. This money is no "windfall". It was earned— often at great sacrifice to our families.

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#### **Statement of the Honorable Jon C. Porter, a Representative in Congress from the State of Nevada**

##### **Subcommittee on Social Security Hearing on: H.R. 4391, the "Public Servant Retirement Protection Act"**

Mr. PORTER: Thank you Chairman Shaw, for calling this hearing on H.R. 4391, the Public Servant Retirement Protection Act of 2004. I wish to express my gratitude to you, Mr. Brady, and Mr. McKeon for introducing this important legislation that will protect the hard earned retirement benefits of nearly seven million Americans, and many of Nevada's teachers, police officers, and other public servants. I

would also like to thank Terry Hickman, of the Nevada State Education Association, for coming here today to represent Nevada's teachers and those around the country.

This legislation represents a significant step forward in restoring fairness to the Social Security system that helps provide retirement benefits for many of America's most dedicated employees. While created to equalize the treatment of all workers, the Government Pension Offset and the Windfall Elimination Provision proved to be onerous burdens to many government employees. By correcting the problems associated with the Windfall Elimination Provision, a significant obstacle in restoring fair benefits will be overcome.

Under current law, employees who pay into a government pension system or other retirement program in lieu of Social Security for some jobs in their career do not receive benefits that are relatively more generous than those of workers with equal earnings who paid Social Security taxes for all jobs in their career. An accurate accounting of the monies to be paid from the Social Security Trust Fund must be made.

This important legislation would modify the Social Security benefit formula to first calculate all of the worker's earnings, as though they were subject to Social Security taxes, using the standard benefit formula. To ensure Social Security benefits are based only on Social Security-covered wages, the benefit that is actually paid would be adjusted to reflect the proportion of the worker's earnings that were subject to Social Security taxes. This common sense proposal would allow those individuals who choose to give up more lucrative careers for the benefit of their communities to receive their just dues from the Social Security Administration.

Again, Chairman Shaw, I thank you for holding this important hearing. Through consideration of this important legislation, this Congress will better serve those individuals who so greatly benefit our communities. I encourage continued consideration of this legislation and urge support from all of my colleagues.

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Carver, Massachusetts 02330

*July 31, 2004*

Committee on Ways and Means  
1102 LHOB  
Washington, DC

To Whom It May Concern:

I am writing regarding the impact of WEP and GPO. I have been a Registered Nurse since 1968. Up until 1987, I worked at several different jobs, spending 13 years in geriatrics; my only pension was Social Security. I started working as a school nurse in 1987. My salary was initially reduced by 1/3; monetary compensation would have been much higher had I continued to work in the private sector. I chose to remain in the school system even as the Medical issues facing me every day increased. My pension will not be adequate to live on. If I had a pension other than Social Security for my first 20 years of employment I would be allowed to collect both.

If something were to happen to my husband, the widows Social Security which I should be entitled to would be greatly reduced. I have a friend whose husband died; while she was working she was able to collect his Social Security after she retired it was taken away. She was a teacher, who had stayed home with her children for many years so her retirement was minimal.

If I had known that I would loose most of my Social Security, which I worked hard for, I might have made different decisions.

Please repeal the WEP and GPO so that those of us who are entitled to Social Security Benefits that we earned will be able to receive them enabling us to retire and live as we should be able to. Any one who has worked hard for their entire adult life deserves to collect the benefits they have earned.

Sincerely,

Mary Ellen Pratt

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**Statement of Retired Educators Coalition for Social Security Fairness**

We, the undersigned, as representatives of nearly 300,000 retired educators in 15 states that are affected by Social Security's Windfall Elimination Provision and Government Pension Offset, believe that H.R. 4391 (the Public Servant Retirement Pro-

tection Act) is a positive first step in providing equitable treatment to public retirees. We are pleased to submit this statement to the House of Representatives' Subcommittee on Social Security as it gathers facts concerning the impacts on public employees of the current Social Security system.

For 20 years, our members have suffered under the financial hardships imposed on public retirees by the Social Security system. Carefully constructed personal retirement plans have been destroyed because of the WEP and GPO. Too often, teachers and other affected school employees only find out about these penalties when they go to apply for their benefits. By then, it is too late to make alternative financial planning decisions, and public retirees are left to cope with what is often a greatly diminished retirement income. We appreciate the fact that Congress at long last realizes that the impacts of these penalties are not what were originally intended when they were enacted.

The WEP, as currently designed, penalizes people who have dedicated their lives to public service, often at a personal financial sacrifice. Teaching is a rewarding career, but it is not lucrative. In order to support their families, teachers typically work in summer jobs and pay Social Security taxes. Many do so without realizing they will receive a reduced benefit because of the WEP. They understand they will not receive the maximum Social Security benefit because, frankly, they have not earned one. But they do believe they will be treated the same as everyone else who meets the minimum eligibility criteria of 40 quarters of covered Social Security employment.

The regressive formula used in the computing the WEP, whereby all of the reduction is imposed on the first increment of eligible earnings, is counter to the intent of the Social Security system. The basic premise of Social Security is to replace a greater portion of the income of people who were more modestly compensated in their working lives. Imposing equal penalties on all public workers, regardless of whether the pension from a non-Social Security system is \$500 a month or \$1,000 or more per month, further compounds this inequity.

Replacing the current WEP calculation with a formula that takes into consideration the individual's entire working career is an important step towards greater fairness in the system. While the increased benefit that will become available to those impacted does not fully restore Social Security earnings lost under the current formula, the additional income will be significant for the poorest retired teachers in our ranks.

Additionally, many of the states we represent are experiencing severe teacher shortages. To meet increasing demands for qualified teachers, many school districts will seek to recruit mid-career individuals from other professions, most of which are covered by Social Security. While these individuals may be willing to make salary sacrifices to pursue a second career in education, they would be unwilling or unable to accept further financial sacrifices that Social Security will impose upon them for their career choice. Reducing the impacts of the WEP will also reduce this obstacle to teacher recruitment.

As we have previously communicated to you and the entire Congress, our eventual goal is complete repeal of both the WEP and the GPO. These penalties impose too great a financial burden on hundreds of thousands of retired teachers who worked hard all of their lives, gave of themselves to their communities and played by the rules. HR 4391 represents an important first step towards achieving that goal. Thank you.

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Farmers Branch, Texas 75234  
*July 16, 2004*

Committee on Ways and Means  
1102 LHOB  
Washington, DC 20515

Dear Sir,

With regards to H.R. 4391, I can only relate my experience with the existing Social Security law. I worked for 22 years in jobs in which I was required to pay Social Security tax. I also worked as a public school teacher in Texas which did not withhold Social Security tax. For the last ten years or so, I received Social Security benefit statement that showed that I would get approximately \$360. 00 per month at retirement age. When I retired, I was told by Social Security that since I was getting a pension from the state teacher retirement system, that my Social Security benefit would be \$170.00 per month. To me this was not right at all. I had paid

into Social Security and met all the requirements, yet couldn't receive the benefits for it. When I asked why, I was told—WEP.

I hope that H.R. 4391 will correct the unfairness in the existing law. I urge you to support and pass a bill that will be fair to all who contribute to the Social Security system.

Sincerely,

Cecil Ralph Roberts

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#### **Statement of Noel R. Rosenbaum, El Paso, Texas**

I have been teaching in the public schools since January, 1993. I teach Computer Literacy to 8th graders and assist teachers and students in their Internet projects.

I am now 62. As a Texas teacher, I am automatically enrolled in the Texas Retirement System (TRS), for which pre-tax money is taken from my income.

I am a widow. I also worked for thirty-five years—since the age of 15—at jobs that were within the Social Security system, meaning that I was contributing POST-TAX money to that system.

I became a public school teacher in 1993. NO ONE told me I would lose my survivor's benefit as a widow once I was part of the TRS system. I did not know that I would lose up to two-thirds of my Social Security benefits which, according to my December 17, 2003 Social Security Statement will be \$1,042 per month at the retirement age of 65 and ten months.

My last TRS statement dated August 31, 2003 informs me that my maximum TRS based on my Three Year Average Salary of \$41,408 is \$873.02 a month at normal retirement age.

I've earned both Social Security and TRS retirements. I do not understand why I have to lose the Social Security I earned over 35 years. I am not sure what my spousal amount would be, but my husband earned well over \$200,000 every year, so I assume my spousal benefit would be at the TOP and maybe higher than my individual Social Security retirement amount!

I though I could afford to be a public school teacher. I have some money from my husband's estate that allows me to live in my own house. I do not take frivolous trips or spend lavishly on my three grandchildren and two children or even myself. Why am I being punished to be a teacher?

Please examine the consequences of this WEP provision keeping in mind thousands of women and men like me who have lost spousal benefits and will have their Social Security benefits reduced upon retirement from public school teaching. How can you justify such a legal/financial requirement?

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#### **Statement of San Jacinto College, Houston, Texas**

This be the full written submission for the list of persons of the San Jacinto College in that we are all in full support of the "Public Servant Retirement Protection Act".

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School Employees Retirement System of Ohio  
Columbus, Ohio 43215  
August 2, 2004

The Honorable E. Clay Shaw Jr.  
Chairman, House Ways & Means Subcommittee on Social Security  
2408 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Shaw,

The School Employees Retirement System of Ohio is deeply appreciative of your co-sponsorship of Representative Brady's H.R. 4391, the Public Servant Retirement Protection Act, and of the recent hearing you held on this bill in the Social Security Subcommittee.

As you know, H.R. 4391 would eliminate the Windfall Elimination Penalty and recalculate public employees' Social Security benefits based on both covered and

non-covered earnings. We believe this new approach represents a far more equitable distribution of Social Security benefits to retired public employees.

We are especially pleased that this new approach continues to honor the intent of Social Security by providing a higher benefit to lower-wage workers. WEP penalizes both low-wage and high-wage workers equally; there is no modification for those who worked in vital, but poorly compensated public positions such as bus drivers, school cooks and custodians. These public employees will receive a far more meaningful Social Security benefit as a result of the new formula in H.R. 4391.

We would like to alert you to some areas of concern for us as deliberations continue: we understand SSA only has records of non-covered earnings beginning in 1978, and some of these records are incomplete; and mandatory coverage of new public employees could be suggested as a partial source of funding for the bill's implementation.

On the data collection and reporting issues, it should be noted that public retirement systems might not have complete career non-covered earnings information, especially if an employee worked for multiple public employers covered by different public retirement systems. On the mandatory coverage issue, we would firmly oppose such a suggestion, as it would not be in the best interest of the State of Ohio, our public employers, or our public employees and retirees. Mandatory coverage would ultimately destabilize public pension funds like ours by starving it of the new contributions needed to pay current benefits.

In closing Chairman Shaw, we are extremely grateful for your efforts to move H.R. 4391 forward. It represents a far better approach to the calculation of Social Security benefits for public employees than we've had since the WEP and Offset were first introduced. Thank you for your diligence in pursuing critically needed reform in both these areas, and please let us know if we may be of assistance to you in this effort. Thank you again.

Sincerely,

James R. Winfree  
*Executive Director*

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#### **Statement of Vashti E. Sherrill, Bakersfield, California**

I am writing this letter in support of H.R. 4391, the "Public Servant Retirement Protection Act". I ask you to support this bill because it is so important to teachers who begin their profession as a second career. As you know, I am sure, there are many working adults who change professions during their career. They change professions for many reasons, but one that is prevalent is the adult continues his/her education and is able to move into a more satisfying and economical position. At the present time, I am an Adjunct Professor with a private university that has many prospective teachers as students. The majority of these students are beginning a second career in education. Most are unaware that even though they worked in the private sector as a banker, secretary, medical assistant, etc., they are forfeiting a large portion of their Social Security benefit when they retire.

This happened to me. I married immediately after high school and worked at a local bank. Actually I began working at the age of sixteen. When my children started school, so did I. I have to say it was exhilarating. Education became very important to me. I received a Masters Degree in English, in Administration and a Reading Specialist credential. I had a rewarding career as a teacher, curriculum specialist and a principal. Even after retirement, I continued in the educational field as an Adjunct Professor because I love teaching and feel I have something to offer prospective teachers.

It was a shock to me to learn when I retired that even though I had been employed in the private workforce for almost twenty years before I became a teacher and had earned many more than the required 40 quarters, I am eligible to receive only about \$240 of a possible \$650 of Social Security benefits that should be available to me. I also learned that I would not receive ANY of my husband's benefits if anything happened to him. If I been widowed and receiving benefits from his Social Security, I would lose it when I retired. THIS IS NOT FAIR. If I had not paid into social security, then I would not expect to receive benefits, but I did pay into Social Security for many years. Not only that, I work for a private university part time and pay MORE into social security than I get and I will never receive any of these benefits unless you pass this bill. THIS IS NOT RIGHT!

As President of the Kern Division of Retired Teachers, I have become acquainted with many members who are really struggling because they do not receive their

earned Social Security benefit. These are teachers who spent their evenings, weekends and summers working a second job to support their families. They paid into Social Security for many years and now are denied the benefit they earned. But the teachers I am really concerned about are the ones who worked many years in the private sector and worked only a portion of their career as a teacher. Their pension, through the teaching profession, is low and even though they dedicated a portion of their life to helping students through teaching, they have to work during their retirement to survive. THIS IS NOT RIGHT!

I am sure that every one of you—who are the successful examples of education—can remember a teacher who influenced your life. You must know and accept the importance of education. There are teacher shortages in many school districts in California and I fear that if becomes well known that second career teachers will not receive the Social Security benefit that they earned in their first career, they may decide not to go into teaching. They should not be penalized because they become teachers. If they worked in the private sector, received the necessary quarters, then they should also receive the benefits.

Please support H.R. 4391, "Public Servant Retirement Protection Act." You will be supporting the many teachers who have dedicated their lives to you and your children.

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#### **Statement of Karin Shipman, Houston, Texas**

I would like to state my support for H.R. 4391, the "Public Servant Retirement Protection Act."

While I am not schooled in the technical aspects of Social Security benefit calculations, I do know that the Social Security benefits for which I have paid are being reduced due to my drawing retirement benefits from Texas Teacher Retirement System. Upon my retirement next year from the private sector, I will have 20 years of "Substantial Earnings" for Social Security purposes. It is my understanding that my Social Security benefit is being reduced under the Windfall Elimination Provision.

Let me be clear on this. I am not trying for benefits based on my husband's earnings. I simply feel that I should get full benefit of the Social Security taxes I have paid over the years. The publication furnished to me by Social Security Administration says that the "modified formula prevents a windfall to people who would unfairly benefit from provisions aimed at low-income workers." My Social Security account will show that I am not a "low-income worker." Surely there's a more equitable way to compute my Social Security benefit.

Thank you for this opportunity to submit information.

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#### **Statement of Glen P. Shultz, Las Vegas, Nevada**

To the Committee on Ways and Means:

I am a teacher in the Clark County School District in Nevada. I have been a teacher for six years. Before I became a teacher I was a pastor for 18 years. In those 18 years, and a few years before I became a pastor I paid into Social Security. It is my understanding that under current laws I would not receive my Social Security when I retired because of my public school retirement plan. I do not believe that I or anyone else who came into teaching as a second career should lose the Social Security benefits that we faithfully contributed to for many years. I urge your support of the Public Servant Retirement Protection Act and to stop this injustice toward public servants who have contributed to Social Security and who deserve to receive the full benefits of their prior service. Thank you for considering my request.

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#### **Statement of Mary Sowder, Henderson, Nevada**

I would like to submit testimony for the Public Servant Retirement Protection Act explaining how the WEP will impact my husband and me, and why Congress should address the unfair public employee offset.

I have been a school teacher for the past 26 years, and my husband recently is a recently retired police officer with 25 of years of public service. We both came to

the public sector from careers in the private sector because we wanted to serve our communities. Unfortunately, it seems like we also chose to give up the Social Security benefits. My husband is now once again employed by a private company and he is once again paying for Social Security taxes which he will never have a chance to enjoy. Over the years I have worked part time in other positions in addition to teaching in order to make ends meet. In all of these positions I have also contributed some amount to Social Security. The current Windfall Elimination Provision will negatively impact our retirement income. Although the Social Security benefits we earned and expected to receive are not large, our combined benefits would help offset enormous payments for continuing health insurance payments once we fully retire.

My husband and I have earned Social Security benefits, and we would not be getting a "windfall." We are merely asking to receive the benefits we earned. I feel that the WEP and the GPO unfairly penalize those who have chosen to enter public service, often at great financial sacrifice. Our nation cannot afford to penalize educators, police, firefighters, and others who have dedicated themselves to serving their communities and their country.

The Public Servant Retirement Protection Act offers an important first step toward the ultimate goal of repealing both the WEP and the GPO. It will make a real difference for many public employees who will receive increased Social Security benefits as a result. I urge the Committee to move this important bill quickly to final passage and enactment into law, and we urge Congress to continue to work toward full repeal of both the GPO and the WEP.

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#### **Statement of Barbara W. Stek, Anchorage, Alaska**

##### **WEP Testimony**

I am a retired school teacher from Anchorage, Alaska. Since high school, I have worked in many capacities in addition to my teaching career. I have earned all the quarters necessary in order to collect Social Security benefits when I reach the required age. Imagine my chagrin when I learned that even though I had met all the necessary requirements, I would not be entitled to all the Social Security benefits.

The Windfall Elimination Provision is very unfair to those of us in public service who have worked in traditionally lower paying positions in order to give back to our communities. My pension alone is not enough to support me and I have worked continuously since my retirement to supplement my income. I was, of course, looking forward to my upcoming Social Security income to insure that I would be able to live without too many monetary worries.

People in other professions are not subject to this inequitable practice. They are able to collect their pensions and their Social Security benefits. Clearly this is an injustice which needs to be remedied.

I ask that you give positive consideration to those of us who have worked in a public service position, who have contributed to Social Security, and who have earned their appropriate quarters in additional employment. Please repeal the Windfall Elimination Provision so that we may collect all the Social Security benefits to which we are entitled.

Thank you for your time.

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#### **Statement of Frank W. Sterret, Bridgewater, Massachusetts**

In 1984 I left the for-profit sector to take a job as a professor at Bridgewater State College. Now at age 59 with over 20 years of service at the college, I will soon be looking at retirement. Unfortunately, I am one of those hard working Americans who is caught in the penalty situation under the current WEP and GPO laws. As I understand it now, I'll be penalized approximately 40% when I retire and claim Social Security. My wife, who has not always worked full time while raising our children, has been working at various positions in public K-12 education. She never worked in the private sector and will suffer under GPO as well.

I really feel that the current WEP and GPO law is grossly unfair to those of us who have worked in multiple jobs where significant amounts of social security dollar have been deducted from our paychecks over the years while working in the private sector. (Please refer to the second page for a list of my Social Security wages.) Typically, I often worked two jobs to make ends meet and to fund college educations for my two daughters. This helped close the pay gap between typical private sector employment and the lower wages of a state college professor.

It's not like I'm trying to get social security money when I retire and have never contributed-just the opposite. I have worked many years with significant earnings under social security in the aircraft repair business, medical device manufacturing, and as a senior systems analyst. As a result of these and other for-profit sector jobs over the years, I have contributed significantly to *both* the social security system in my private sector jobs and to mandatory state retirement funds when working in the public sector.

My wife and I have been in situations where we've had to sell two houses at a loss. We usually earned enough so that our daughters usually did not qualify for need based scholarships. We own our own home but still have 12 years to pay off our mortgage at \$2130 per month here in the Boston area. My wife and I do not have a lot of assets, are not independently wealthy, and will not inherit much. We are counting on Social Security to help us in our later years. We support all efforts to eliminate the unjust penalty clauses for those Americans who worked in both the public and private sectors. Thank you.

Year you worked	Your Taxed S.S. Earnings	Year you worked	Your Taxed S.S. Earnings
1963	337	1981	26,983
1964	912	1982	30,500
1965	305	1983	35,700
1966	727	1984	833
1967	2,584	1985	0
1968	6,421	1986	0
1969	7,330	1987	5,000
1970	7,800	1988	6,400
1971	4,975	1989	6,600
1972	8,546	1990	0
1973	10,800	1991	7,800
1974	13,140	1992	17,400
1975	12,761	1993	13,399
1976	15,300	1994	1,500
1977	16,500	1995	56,072
1978	17,700	1996	62,700
1979	16,754	1997	65,400
1980	19,426	1998	68,400
		1999	72,600
		2000	76,200
		2001	64,212
		2002	21,700
		2003	5,400*
		TOTAL S.S. Wages =	\$801,717

\*(partial)

#### Statement of Juanita Terrell, Mont Belvieu, Texas

I began work for the Barbers Hill ISD in 1975, coming from other places of employment and paid into Social Security while employed at these other places (enough quarters to draw full benefits)

Since the school district only paid SS in the new employees, when I retired I was not paying SS and therefore fell in the bill "must have been paying social security taxes on your last day of employment prior to retirement".

I am unable to receive the social security that I have rightly earned, and am merely asking to receive those benefits.

The Public Servant Retirement Protection Act offers an important first step toward the ultimate goal of repealing both the WEP and the GPO. It will make a difference for many public employees, who will receive increased Social Security benefits as a result.

I chose to work for the school district starting out at \$350 a month which was not much, but I was giving back to my community.

I would like to urge the Committee to move this important bill quickly to final passage and enactment into law, and I also urge Congress to continue to work toward full repeal of both the GPO and the WEP.

Thank you very much for your consideration.

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**Statement of Shelby Patrick, Texas Classroom Teachers Association,  
Austin, Texas**

My name is Shelby Patrick, and I am the 2004–05 president of the Texas Classroom Teachers Association. I am also a high school chemistry teacher in Wichita Falls, Texas, and I appreciate this opportunity to provide input to the committee on an issue that has a serious impact on Texas teachers.

The Texas Classroom Teachers Association is a statewide professional organization representing over 50,000 teachers and other non-administrative educators across the state of Texas. A large majority of our members is affected by the Windfall Elimination Provision and the Government Pension Offset, the two laws that reduce Social Security benefits for many government employees.

The TCTA supports HR 4391, and we appreciate the efforts of Representative Brady, Chairman Shaw, and the other members of the U. S. House of Representatives who have co-authored and co-sponsored this legislation. We have long supported HR 594 and other bills designed to either repeal the GPO and WEP or to at least mitigate their impact. We are aware that the costs of repealing the GPO and WEP are high, and understand the rationale behind finding a less expensive remedy to the problems faced by government employees who are subject to the two offsets. However, we strongly urge your support for HR 594 and encourage action on that legislation as soon as possible.

While HR 4391 does not address the GPO, and does not completely eliminate the reduction of Social Security benefits for those employees who have earned benefits through their own participation in Social Security, it does represent a step forward that we believe will benefit government employees in Texas.

Texas, as other states, faces a severe teacher shortage. The state has therefore made efforts to recruit individuals from other states and other professions. While there is no way to measure the impact of the WEP on these efforts, it is reasonable to assume that many such individuals are dissuaded from becoming a Texas teacher because of the likelihood that their hard-earned Social Security benefits will be reduced. Calls to our office have unfortunately borne out the other negative consequence: that individuals make the decision to become a Texas teacher only to discover the implications after the fact.

The WEP also affects school employees who have taken additional jobs in the private sector in order to make ends meet. This is not uncommon, particularly among educational aides and other low-paid employees but also among teachers whose salaries are inadequate to meet their needs.

These employees have paid into Social Security for 40 quarters or more, sometimes over a full career, and have fully earned Social Security benefits. The WEP arbitrarily and unfairly reduces those benefits. HR 4391 is designed to apply a more fair calculation that takes into account the employee's individual earnings and should represent an improvement over the current law.

We appreciate your consideration of our remarks, and encourage you to move HR 4391 through the process. TCTA will continue to advocate for repeal of the WEP and the GPO, and again we urge the members of this committee to take action on HR 594 as well.

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**Statement of Eric Hartman, Texas Federation of Teachers, Austin, Texas**

Thank you, Chairman Shaw, for scheduling this hearing and for providing the opportunity to submit testimony on behalf of the Texas Federation of Teachers, which represents more than 51,000 teachers and other education personnel in Texas public schools and institutions of higher education. TFT is an affiliate of the American Federation of Teachers, which represents 1.3 million teachers and other public servants nationwide.

Congressman Brady, as author of H.R. 4391, deserves credit for recognizing that the Windfall Elimination Provision is Aterribly unfair, as he has put it. By replacing the WEP with a new benefit-offset formula that could give back to school employees

an average of 23 cents for each dollar currently taken away by the WEP offset, H.R. 4391 would be a partial corrective for that unfairness.

We welcome the introduction of this legislation as well as this hearing as evidence of the growing momentum in Congress for Social Security fairness for Texas public school employees and other public servants. However, we believe Congress can and must do more to remedy the inequity of the WEP and the other offset that does grave harm to public servantsBthe Government Pension Offset.

These unjust offsets single out public employees like teachers for harsh treatment. The WEP typically takes \$306 a month out of the Social Security retirement benefit of a dedicated public servant who has earned those Social Security benefits. Even more damage is done by the GPO, which cuts Social Security widow's and spouse's benefits by two-thirds of the pension earned from public service not covered by Social Security. For most of those affected, the GPO wipes out the entire Social Security benefit, and for many the result is poverty.

At a time when Texas faces a shortage of more than 50,000 appropriately prepared and certified teachers, these offsets deter recruitment of educators needed to serve the schoolchildren of our state. Just this summer, the end of the last-day exemption from the GPO has aggravated the teacher shortage in Texas, as many teachers reluctantly retired in order to take their last opportunity to avoid the unjust GPO.

Texas educators already suffer low salaries, lack any guaranteed cost-of-living adjustment in their Texas Teacher Retirement System pension, and must bear soaring costs for retiree health insurance of deteriorating quality. Their Teacher Retirement System pension is not an adequate stand-alone retirement benefit. Yet both the existing and proposed versions of Social Security offsets for Anoncovered public service rest on the false premise that public servants already have the benefit of a sufficient substitute for Social Security and therefore can afford to lose some of their earned Social Security benefit through an offset. No formula-based justification makes this a fair outcome.

These offsets should be repealed outright, not just partially corrected. Texas school employees and other public servants nationwide lose billions of dollars a year in earned Social Security benefits because of these two unfair benefit-reduction formulas that apply only to retired public employees. It is an outrage that these federal benefit formulas treat a teacher's pension as if it were some sort of ill-gotten gain that must be offset by a reduction in Social Security benefits duly earned by a school employee or that employee's spouse.

H.R. 4391 would take a step in the right direction, but Congress must go much further. The current Congress should debate and vote on another bill that has gained broad support and would go the full distance toward fairnessB.H.R. 594. This bill proposes a Social Security Fairness Act that not only would repeal the WEP entirely but also would repeal the equally unfair and damaging GPO offset of spousal benefits.

The Texas Federation of Teachers therefore calls on the Social Security Subcommittee to move quickly to bring H.R. 594 out of subcommittee and onto the floor for a vote. Another option would be to mark up H.R. 4391 promptly, send it to the House floor, and let the broader language of H.R. 594 be debated and voted on as an amendment to H.R. 4391.

Congressman Brady has estimated that H.R. 4391 could add something approaching \$7 billion to Social Security checks for 700,000 retired public employees nationwide over ten years. By comparison, H.R. 594, the bill to repeal the WEP and GPO entirely, would provide more than \$60 billion in added Social Security benefits to a million-plus retirees over that same span.

It is clear to us that Congress increasingly sees full repeal of these unfair offsets as the right thing to do. H.R. 594 currently has 300 cosponsors in the U.S. House, and an identical companion measure, S. 349, has 31 Senate cosponsors. Some 192 House members even have taken the extraordinary step of signing a discharge petition to force a House floor vote on H.R. 594.

As you continue to consider H.R. 4391, we ask you also to weigh the following concerns about the mechanics of the legislation:

Despite the net gain for affected retirees promised under H.R. 4391, it should give you pause that, for a significant number of employees, the current WEP formula actually is more advantageous than the proposed new benefit-reduction formula. The current WEP places a cap on the reduction in benefits for noncovered service and phases out the offset for those with more than 20 years of covered employment. H.R. 4391 has no such limits on benefit reduction. The bill's hold-harmless provision is a partial but not complete answer to this concern.

When earnings records are unavailable, Social Security officials must not be authorized under H.R. 4391 to make arbitrary assumptions to the disadvantage of retired public servants regarding their earnings from noncovered employment.

H.R. 4391 does not specify how Congress would pay the cost of restoring the benefits now unfairly reduced by the WEP. Ironically, it has been suggested that such costs could be covered by new measures to enforce Social Security offsets such as the GPO! Nothing could be better calculated to destroy the potential good will generated by H.R. 4391 among school employees. We call on the subcommittee to reject any such approach to paying for H.R. 4391.

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#### **Statement of Tom Tutor, Islesboro, Maine**

I ask that you support the passage of HR 4391 and eliminate the unfair provisions of the Government Pension Offset (GPO) and Windfall Elimination Provisions (WEP) of the Social Security Act.

I am a teacher in a small island school in Islesboro, Maine. For fifteen years of my adult working life I was a ships carpenter and custom furniture maker. In middle age, with small children in our local school, I became a member of the school board and found the school to be a wonderful place. Several years later, off the school board and looking for more mental stimulation in my life, I became a math teacher at the age of forty—my math degree, earned almost twenty years before, became extremely useful.

I have now been teaching for thirteen years and have found my life's calling. Without a doubt, this is the hardest work I have ever undertaken.

Looking ahead to retirement in another ten to twelve years, I am appalled to find that the contributions I made to Social Security (SS) for fifteen years will not be returned to me. Why? I'm no fat cat looking forward to living a luxurious life at the expense of the state. I'm a middle class, responsible, working citizen devoting my work to the betterment of my community. Why am I to be penalized and scramble to make ends meet as a retiree? I have worked long and consistently; I deserve an adequate pension. Only by combining my rightful SS benefits and my Maine State Retirement (MSR) benefits will I receive a meager living allowance.

I project that if I receive all of my rightful SS benefits from fifteen years' contributions and MSR after twenty years of teaching with a masters degree, I will receive \$23,202 dollars a year. Under the present GPO, that would be decreased to \$19,602. I am not some well heeled executive trying to feather my nest. I, and my fellow teachers, are threads in the fabric of our communities who should be rewarded with an adequate compensation for years of conscientious work.

I ask for your help. Be active in your support of HR 4391.

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#### **Statement of Gertrude M. Vinci, Reno, Nevada**

This is my statement regarding the repeal of the Social Security Offsets.

I am a two-career person. At age 40 I left my 20-year career as an office manager with the largest private accounting firm in the state of Nevada. I went back to school and became a teacher. I am currently teaching a Business Computer Systems class at Regional Technical Institute. I send high schools seniors into the business world with IC3 and Microsoft Office Specialist (MOS) Certifications.

All of my retirement money has been paid into Social Security. I will only be able to teach, at the most, 15 years. Therefore, I will not be able to collect a full retirement from PERS or from Social Security under the current Windfall Elimination Provision Act.

It just doesn't seem fair that I have worked so hard and paid into these retirements and now will not be able to receive what benefits I have earned. I feel that this has been a deterrent for other people who have shown an interest in changing careers and going into teaching. There are a lot of business people who would like to help out our public education system, however, because of this WEP Act they feel that they cannot take the risk and loose their benefits.

I urge the Committee to move this important bill quickly to final passage and enactment into law and I urge Congress to continue to work toward full repeal of both the GPO and WEP.

Please respect public service—Repeal Social Security Offsets for the state of Nevada.

Thank you!

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**Statement of Donna Wasneski, Grand Junction, Colorado**

I am Donna Wasneski, a teacher who will not be able to receive my late husband's social security or the benefits I have earned myself because of the GPO and WEP.

These legislative actions unfairly penalize teachers and other public servants who chose to enter these professions after accumulating sufficient social security quarters to qualify for benefits.

I am not asking for a windfall, just what myself and my husband earned.

Please repeal these two unfair mandates, GPO and WEP and support the Public Service Retirement Protection Act.

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**Statement of Jean K. Willard, Spring Branch, Texas**

QUESTION: Looking for justification in not receiving ANY of my deceased husband's 40 years of involuntary contribution to Social Security. Perhaps this could be reworded—my husband's donation to be used for everything but his wife's welfare in her advanced unemployable years. That is the problem. These benefits were EARNED by a hardworking, conscientious man who started working nights during his high school years; then was a veteran Army Air Force pilot in the South Pacific; then employed (and contributing) until his death. He died thinking his family would be provided with those earned funds through Social Security. He was always active in his community believing he should contribute his expertise to make the community a better place in which to live. Many children benefited from his energy and caring for them. Meanwhile his wife taught school, not knowing the time and energy spent in that pursuit would penalize her and negate her receiving the benefits her husband had been assured would be there.

That Social Security check could make the difference in getting dental work done; medication and a decent diet not to mention house repairs. I'm not talking the Riviera here.

ANSWER: Repeal both WEP and GPO I don't understand how you can justify not doing IT. Stop the theft.

A heartfelt plea.

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**Statement of Kirt Willard, Pleasanton, California**

Thank you for taking the time to read this statement. My mother is Jean Kaylor Willard. She was married to my father Walter G. Willard (1923–1981). My father lost his dad when he was 9 years of age and worked two jobs (A&P market and Rubber sole factory) after school to help my grandmother make ends meet. During WWII my father was asked to fly B-24's in the South Pacific and was shot down three times. He returned to finish a degree in college and worked until his death, all the while paying Social Security.

There were five children in the household. My mother still found time to substitute teach and, if we stayed in one place long enough she would teach full time. Teachers are the most under appreciated and under paid in my opinion. I have seen her spend countless late night and early morning hours preparing for lessons or grading exams.

My concerns are that those who choose to enter public service are being penalized. The contributions my father made should not be kept by anyone other than his family.

I strongly urge you to repeal the WEP and GPO in order to help those who have given the most and made the biggest sacrifices.

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**Statement of Sandra Wilson, Aurora, Illinois**

My name is Sandra Wilson and I am a teacher at Still Middle School in Aurora, Illinois. If I had been aware of the WEP and GPO in 1992, I never would have left my business career to become an Illinois teacher. Although, I started out in teaching in 1970, I could not make enough money to support myself.

For that reason, I went back to school and received a Masters in Business. I then worked for several Chicago companies for 15 years. I was making a good salary all of those years. However, I never lost my interest in the teaching field.

In 1992, I took a 60% cut in pay to return to teaching. I was able to do that because then I was married. I exchanged a lucrative business career for a career working with children. Although it bothered me that I couldn't pay for an average house and lifestyle without my husband, I believed that I was making an important contribution to society and to the state of Illinois.

Although I was foregoing current income, I did not realize that I was putting my future retirement income at risk. Because I would not be able to teach more than 10 to 15 years, I knew that I would not get a large teacher pension. However, I was counting on living a decent life based on the combined benefits of my Social Security Pension and my Teacher's Pension. In order to have enough money in retirement, I need the full benefits of both pension plans.

This is not a windfall. I have worked very hard for both pensions and my husband and I will need that money when we retire due to high medical insurance cost and the rising cost of living. This is especially true since my husband has no pension benefits. It is only fair that I receive the all the benefits that I was promised and the money that I contributed to each retirement system. I especially will need both pensions if my husband dies and I am a widow. Since most women outlive their husbands, this is not an unlikely scenario.

I know that the government wants its public servants to live a decent life in retirement and not be penalized. For that reason, I am urging you to support The Public Servant Retirement Protection Act. This act is an important step toward repealing both the WEP and the GPO. This act will help me live a decent life in retirement because I will be receiving the full benefits of Social Security.

Please pass this bill and enact it into law as quickly as possible. Also, I encourage the Committee to continue to work toward the full repeal of both the GPO and the WEP.

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**Statement of John G. Wolfe, Toledo, Ohio**

Gentlemen:

I am a retired teacher, age 68, drawing my State Teachers Retirement and a monthly Social Security check of \$99.00.

I decided at age 13 to become a teacher. My parents were 8th grade educated that decided I would attend college. My dad was a city firefighter and my mother was a clerical worker in a hospital. I started my work experience at 13 in Pepsi Cola bottling plant putting cardboard carriers in pop cases. A year later, I got a job in a grocery store stocking shelves. When I turned 16 with a driver's license, I delivered groceries and then moved to a job in a dairy. I was general labor so I unloaded sugar trucks, took cans out of a can washer and helped load semi trucks with cases of dairy products. I always had a part time job after school when I reached high school age and in the summer I worked for a construction firm doing manual labor. My parents insisted I put part of my wages in a savings account for college. When I was 17, I had money to buy a Model A Ford to give me transportation to work (it was 24 years old).

When I went to college, I had a room and board job in the dining hall that also provided me with money for books and spending. My parents used money from their savings to pay tuition. In those days, it was \$90.00 per semester at a state university.

During college, I worked in a school bus factory to earn money for the following year. I was a teenager doing men's work for men's pay.

When I graduated college, I got married to my high school sweetheart and, because of Selective Service, I immediately became eligible for the draft. I chose to enlist in the Navy rather than go into the Army.

Because I was a college graduate, I was eligible for OCS. I served 3 years on active duty as a commissioned officer and upon completion of my obligation, I returned to Ohio and resumed a career in Education. Teachers were not overpaid in those days and I worked 2 jobs in addition to teaching to support my wife and children.

Thanks to the GI Bill, I was able to go to graduate school and obtain a Masters. I continued summer employment, teaching in the winter and going to graduate classes at night.

After obtaining a Masters, I was able to secure a principalship in an Elementary School. I still worked in the summer building school buses as there never seemed to be enough money with a young family.

In my education career, I went on to be a junior high and eventually a high school principal.

As my administrative career progressed so did the terms of employment in the school so eventually I was unable to work a 2nd job in the summer.

I completed 31 years service in the Public Schools of Ohio and retired at age 51. Upon retirement from School Administration, I opened a remodeling and home repair business to supplement my retirement. I continued this for several years until I was eligible for Social Security. When I applied for Social Security, I was flabbergasted to find my Social Security benefit was reduced because I was drawing a teacher's retirement. I wrote to my congressman only to learn about the "Social Security offsets."

I continued in my remodeling business to supplement my teachers pension and meager Social Security benefit until last year, when at 67 I was no longer able to physically do the work involved in remodeling.

My wife, who worked as a secretary for 24 years, later pursued her degree and entered the teaching field. We were able to send 3 of our 4 offspring to college with both of us working and our plans to reap the benefits of working 2 and 3 jobs with hopes of a teachers retirement and Social Security were dashed when we learned of the *unfair* offset of "windfall" provisions of the law. When I was contributing to Social Security, the deductions from my pay were not at a "50%" rate and I believe I should be entitled to the full amount of Social Security benefits, whatever they may be, for the years I worked and the benefits I accrued.

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#### **Statement of Mary E. Wolfe, Toledo, Ohio**

I am a retired secretary/teacher, age 67, drawing my State Teachers Retirement and a monthly Social Security check of \$225.00.

I began work at the age of 16 in various retail establishments. I started my college career at Ohio State Univ. in 1954, started as a clerk at a dairy company in the summer of 1955 and continued my college work in 1956 at Bowling Green State Univ. in their two year secretarial program. In 1957, I began doing secretarial work and had a variety of positions until 1967 when I started continuation of my college career. I was able to start in the teaching profession on a temporary certificate while completing my college degree in 1973. Needless to say, I was on a reduced payroll amount during this period of time. Because of my husband's career in Education, we had several relocations and thus I was unable to retain a steady teaching job and did a variety of secretarial work and substitute teaching positions.

When my husband retired from the education field in 1988 and we relocated to the Toledo area there were no business teaching positions open and I again entered the secretarial field working in temporary situations until the age of 60 when I was able to start drawing on my State Teachers Retirement. My retirement from STRS was a greatly reduced amount since salaries were low, substitute teaching was not a steady income, and temporary secretarial jobs were not high paying.

When I received information from the Social Security Administration that I could expect to receive \$450.00 a month at retirement, I felt that this would help supplement my reduced STRS amount. I was astonished when I found out that my Social Security amount would be cut in half due to my STRS income. For the last five years, I have received \$225.00 per month from Social Security. Every time there has been a COLA increase, Medicare has increased but my Social Security is still \$225.00 per month! I find this a very unfair provision.

Why is it that only a few of the 50 states have this offset? My understanding is that this involves only 12 or 14 states. Other teaching associates of mine, who have moved to other states that do not have this provision, receive their full STRS and Social Security benefits. Also, those in Ohio that started drawing Social Security first and later their STRS are not affected by this law. I do not find this a very fair legislative action.

When I was contributing to Social Security, my deductions were not at a 50% rate and thus, I believe I should be entitled to the full amount of Social Security benefits. I also feel I should be reimbursed for what I was entitled to over the past five years.

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**Statement of Pete Zimmerman, Mission Viejo, California**

In submitting the following written letter for the record for the Committee on Ways and Means Hearing on H.R. 4391, the "Public Servant Retirement Protection Act" (to amend the W.E.P.), I am in agreement with the subcommittee chairman's desire that the hard working, dedicated public servants of this country should not only be appreciated but should also be treated fairly and equitably with those in the private sector. That is why the first half of this letter deals with my opinion of the W.E.P. and the G.P.O. and why they both should be eliminated entirely. The last half of the letter focuses on my concerns/questions regarding H.R. 4391 which would instead amend the W.E.P.

I retired in 1998 after 30 years as a California teacher **and** have worked another job for about 25 years (most of which were in the same years that I was teaching). As a California teacher, I paid no Social Security taxes; but in my other job over this period of time, I have paid a significant amount of total Social Security taxes, the amount varying each year.

During the past years I have been working for the elimination of the WEP and the GPO. Since I am now 63 years old, and within two years of collecting Social Security, I have become more and more motivated to see the W.E.P. entirely eliminated—now. Furthermore, my wife has been a California teacher for 25 years; her government pension will be in an amount that will reduce her SSA survival benefit (after my death) to zero as a result of the existence of the G.P.O.—she is only one woman teacher out of tens of thousands that have or will have been hurt by this Social Security provision.

As I have consistently argued over the past years, the W.E.P. and G.P.O. are very unfair to so many hard working, dedicated public employees in our nation. (It is estimated that more than 1/3 of education employees and more than 20% of other public employees in the U.S. are not covered primarily under Social Security.) Both offset provisions can be shown to discriminate against public employees who, for the most part, have not earned high incomes from government employment; but then they are penalized with varying cuts in Social Security benefits just because they also receive a government pension other than from Social Security. This is not true of most of the private sector employees who are allowed to keep their full Social Security and/or survivor benefits in addition to their own entire private pensions. (Note: I have not yet been able to discover if and how members of Congress are affected by the W.E.P. and/or the G.P.O.)

Secondly, many American public employees have not been made aware of these offset provisions until shortly before they retired. They had always counted on their full Social Security benefits for themselves and/or their spouses. Both the present G.P.O. and W.E.P. provisions have been a part of the Social Security Act since the 1980's, (15 years into my teaching career and 5 years after starting a second job). Yet I, like so many others, was never clearly informed by the Social Security Administration until the late 1990's. In reviewing my own written announcements that I received from the SSA (and still possess), I discovered that it wasn't until 1997 (the year before I had planned to retire) that the SSA started warning me of the possible affects of the G.P.O. and the W.E.P. on my Social Security benefits—a little late for planning for the future. All of these years I felt that by paying into Social Security on a second job I would be making retirement more comfortable for my wife and me.

Furthermore, it should be said that some people in my case (paying into a government pension other than Social Security AND paying into Social Security for a second job) are totally exempt from the WEP if they can show 30+ years of what is termed "substantial earnings" in a job in which they paid Social Security taxes. They receive partial exemptions on a sliding scale down to 21 years of "substantial earnings". Without committing a whole lot of time to a second job (which takes away time both from a teaching/government job as well as from a family), it's not easy to acquire those years of "substantial earning" which could lead to an exemption from the W.E.P. Unfortunately, it's physically impossible for me to earn the required number of years of "substantial earnings", since my retirement at age 65 (and eight months) is only two years away. Even if I would have been fully informed of these provisions back in the 1980's when the W.E.P. was passed (rather than in 1997 when I was actually informed), I would have only had a little over 20 years until my retirement at 65 to think about the importance of working towards qualifying for "substantial earnings" years. Of course, at that time, our decision that I would

work a meaningful second job rather than my wife taking a job outside the home, may have been different.

Still another crucial consideration is how the W.E.P. and G.P.O. affect teacher recruitment in many states. A state should want to encourage the hiring of quality, credentialed teachers for the open positions, rather than hiring less qualified teachers or rather than possibly raising the average class sizes. It doesn't seem wise to have the G.P.O. and/or W.E.P. penalizing individuals who are considering either moving from private sector employment (where they have paid into Social Security) or teachers who are moving from one state (where they paid Social Security taxes as teachers) to another state where their teacher pension will not be a part of Social Security. The latter would probably be best brought out by women teachers whose husbands are being transferred to another state; and the women might then have to think hard whether or not to continue teaching in any of the following states: California, Texas, Colorado, Illinois, Ohio, Louisiana, Alaska, Connecticut, Maine, Kentucky, Massachusetts, Nevada, or Washington (some of the 20 states in which the teacher retirement system is not within Social Security).

In analyzing the recruitment of teachers from the private sector, one definitely needs to consider the possible effect of the W.E.P. It appears that both President and Mrs. Bush have been encouraging experienced people to eventually change careers and enter the teaching profession. Mrs. Bush has spoken out on this a number of times. A few years ago the President proudly introduced the national teacher of the year—a retired military man who chose to teach in a California community containing numerous low income families. It would be interesting to see if (and to what degree) he will be affected by the W.E.P. once he retires from teaching. (He served 22 years in the military as an officer and thus no doubt has been credited with 22 years of "substantial earnings", still 8 years away from the 30 years necessary for a complete exemption from the effects of the W.E.P.)

Individuals who have worked in other careers would seem to be less likely to decide to teach, if they knew doing so would mean a significant loss of Social Security benefits that they or their spouse had earned. This is especially true in California where it is estimated that more than 1/3 of our teachers will enter the profession after the age of 35. Again, anyone changing careers from a "Social Security" job into teaching while still in the 30-to-early-40's age group, has probably earned no more than 20 years of "substantial earnings"—not even good enough to receive a partial exemption from the W.E.P. penalty (let alone the full exemption with 30 years of "substantial earnings"). Thus, it appears then that the most successful recruitment program would have to be directed toward those who are at least 50—an age which many might consider a little old for starting an effective career in many teaching assignments.

Finally, some would say that the W.E.P. was especially set up in the 1980's to limit "double dipping". Instead I would argue just the opposite—it actually affects people having two different jobs (one normally in the public sector and one in the private sector) and having two separate pension systems. That, in my mind, is not "double dipping".

I worked two jobs so that I could afford to have my wife stay home with our children during their early years, so we could pay for their future education, so we could prepare for an emergency and so we would have a comfortable retirement. Is that something that we should discourage by penalizing in their later years both the husband and wife for doing so? The G.P.O. and W.E.P. seem largely to be penalizing a lot of people who serve their communities/their country in what have been generally, lower paying public jobs. Furthermore, they do not encourage quality people to transfer from the private sector into many public jobs (especially those involving teaching).

At this time a "compromise" bill (H.R. 4391 or the Brady bill) is to be considered by the Social Security Subcommittee of the House Ways and Means. News of this led to efforts trying to figure out just how this would effect me personally and if my benefits would be much different than under the present W.E.P. offset. I used the examples on the N.E.A. website and also referred to Congressman Brady's website for a template or formula. Unfortunately, I was unable to calculate the impact on me under this new proposal, particularly in those years where I had earnings from BOTH covered and non-covered work. The following are questions about the Brady bill that I would hope that the discussions in the committee hearing would address: In counting the highest 35 years of earnings including those of non-covered work. How/where does one (the Social Security calculator or a person like myself) find one's annual earnings as a teacher?

1. In counting the highest 35 years of earnings including those of non-covered work . . .

- How/where does noe (the Social Security calculator or a person like myself) find one's annual earnings *as a teacher*?

AND

- Are these teaching earnings gross or net earnings calculated after deductions such as dues, retirement, etc.?

2. In averaging the earnings over 35 years . . .

- Does this mean to average those 35 individual years where the total of "non-covered" and "covered" earnings together was the highest?

3. Who will make these calculations in determining my total Social Security benefit?

- How is this person able to determine which total yearly figure to use? It seems that for a person (like myself) who has worked two jobs each year at the same time for a great number of years, it will be difficult to calculate. (Whereas for a person working a job covered by Social Security in a separate time frame from working a non-covered job, it could be a lot easier.) Needless to say, I would like to be able to verify for myself the final benefit figure determined by the Social Security Office.

4. Did the formulators of the Brady proposal do numerous "test" analyses/calculations on specific, random individuals in various job scenarios to see how it would affect a lot of them individually? It would seem to me this would have to be done to determine accurately the actual cost of an amended W.E.P. Consider the following:

- Does the Brady Proposal mainly help those who worked in a Social Security covered job first and then went into a teaching career?
- Would it have the same affect if this order was reversed?
- Does the Brady bill have different affects (and how significant) on individuals like me who have worked, for the most part, on a teaching job (where I did not pay into Social Security) at the same time as another job (where I did pay into Social Security)—compared to those who started into a new one of those types of jobs after completing another of those types of jobs (i.e. changed careers)?
- Does the number of years working in each of the careers have a significant affect on the level of benefits under the Brady bill?
- Finally, would all states be calculated the same according to the Brady bill? Why or why not?
- Would differences in costs of living affect the Brady bill calculations? How?

5. Did the cost analysis of H.R. 4391 include any benefits to be provided to previously retired people?

6. Roughly what proportion of the cost for this bill would be for increased benefit payments? Where would the remaining monies go?

7. Was it ever suggested to amend the W.E.P. by merely decreasing the number of years of "substantial earnings" that one must have (in order to receive increased benefits) down from 30 to 10 or to 20? Consider the following:

- It would seem to benefit those who have had a serious second job/career as does the Brady bill.
- It would seem to be much simpler and faster to calculate and cheaper to implement than the Brady bill.
- It would seem to deal well with the issue of recruiting the best quality of teachers from other states where they had paid into Social Security or recruiting quality people from other careers who had paid into Social Security allowing plenty of time to serve in a school as an effective teacher.
- It would seem to be much easier way for those affected by the W.E.P. to understand and calculate their benefits by themselves.

8. Finally, why was the W.E.P. addressed in the Brady proposal rather than the G.P.O.?

Thank you in advance for your consideration.

